

AMENDED IN ASSEMBLY SEPTEMBER 5, 1997

AMENDED IN ASSEMBLY JULY 11, 1997

AMENDED IN ASSEMBLY JUNE 30, 1997

AMENDED IN SENATE JUNE 3, 1997

AMENDED IN SENATE MAY 1, 1997

AMENDED IN SENATE APRIL 10, 1997

SENATE BILL

No. 1106

**Introduced by Committee on Revenue and Taxation
(Senators Alpert (Chair), Greene, Karnette, Knight, Kopp,
and McPherson)**

February 28, 1997

An act to amend Section 30 of the Business and Professions Code, to amend Section 1666.5 of the Insurance Code, *to amend Section 1203.1d of the Penal Code*, to amend Sections 17053.49, 17062, 17220, 17276.2, 17502, 17570, 17935, 18633, 18633.5, 19021, 19024, 19141.6, 19280, 19282, 19283, 19340, 23183.1, 23183.2, 23221, 23332, 23332.5, 23455, 23649, 23802, 23809, 23811, 24416.2, 24602, 24710, and 24918 of, to amend and renumber Section 19532 of, to amend and renumber the heading of Article 6 (commencing with Section 19280) of Chapter 5 of Part 10.2 of Division 2 of, to add Sections 17936, 23114, and 24954 to, and to repeal Sections 23184, 23184.5, 23185, 23185a, 23185b, and 24903 of, the Revenue and Taxation Code, to amend Section 1088.5 of the Unemployment Insurance Code, and to amend Section 56 of Chapter 952 of

the Statutes of 1996, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1106, as amended, Committee on Revenue and Taxation. Taxation.

(1) Existing law requires any board, as defined under the Business and Professions Code, including the State Bar and the Department of Real Estate, and the Insurance Commissioner to require that any licensee at the time of issuance or renewal of a license provide its federal employer identification number, if the licensee is a partnership, or his or her social security number for all others. Existing law also provides that any licensee failing to provide this information shall be reported by the licensing entity to the Franchise Tax Board, as specified, and shall be subject to a penalty if the licensee fails to provide the required information after notification by the Franchise Tax Board.

This bill would make technical clarifying changes in those provisions.

(2) The Personal Income Tax Law and the Bank and Corporation Tax Law allow to qualified taxpayers, as defined, a credit against the taxes imposed by those laws in an amount equal to 6% of the amount paid or incurred during the taxable or income year for qualified property, as defined, that is placed in service in this state. These provisions refer to the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, and as further amended.

This bill would delete the reference to the amended version of that manual and would also make a technical change in those provisions.

(3) The Personal Income Tax Law and the Bank and Corporation Tax Law provide for the levy of an alternative minimum tax in partial conformity with federal law, subject to certain modifications that include a tentative minimum tax. The alternative minimum tax provides that alternative minimum taxable income does not include adjustments and



items of tax preference attributable to the trade or business of a qualified taxpayer, as defined.

This bill would clarify the definition of “qualified taxpayer” by defining the terms “aggregate gross receipts, less returns and allowances,” “gross receipts, less returns and allowances,” and “proportionate interest,” as used therein.

(4) The Personal Income Tax Law and the Bank and Corporation Tax Law allow a taxpayer to claim certain tax incentives for activities conducted in an enterprise zone or the Los Angeles Revitalization Zone, including a deduction for net operating losses. Existing law provides that any net operating loss may be used only to reduce income attributable to the zone business activities. Existing law allows any net operating loss to be carried forward after the zone designation expires.

This bill would additionally provide that a taxpayer may use any net operating loss carryover against the income that a taxpayer derived from a business conducted in an expired zone as if the zone remained in existence.

(5) The Personal Income Tax Law and the Bank and Corporation Tax Law, in conformity with federal income tax laws, provide for the postponement of gain from the exercise of specified types of stock options until the sale of the stock.

Both laws also establish a California qualified stock option that allows the specified postponement of taxes upon the exercise of any other type of stock option, if the stock option is limited to a specified number of shares and value, and is exercised by individuals who are employees with earned income below a specified amount and who meet other specified conditions.

This bill would modify the characteristics of a California qualified stock option and would authorize a corporation to designate that the stock option that is otherwise a California qualified stock option is to be treated as such at the time the option is granted, as provided. This bill would make related technical and conforming changes to specified provisions of the alternative minimum tax.

(6) The Personal Income Tax Law provides that no deduction shall be allowed for any tax imposed under the Bank and Corporation Tax Law.

This bill would make a technical nonsubstantive change to those provisions by deleting a confusing and unnecessary reference.

(7) The Personal Income Tax Law and the Bank and Corporation Tax Law provide specified conformity to federal income tax laws relating to the mark to market accounting method for securities dealers for taxable or income years beginning on or after January 1, 1998.

This bill would revise those provisions to conform for taxable or income years beginning on or after January 1, 1997.

(8) The Bank and Corporation Tax Law allows an exemption from taxation for a limited liability company or a limited liability partnership that is commencing or dissolving operations if the entity did no business in California during the taxable or income year and the taxable or income year was 15 days or less.

This bill would provide similar relief for corporations and limited partnerships.

(9) The Personal Income Tax Law, among other things, requires partnerships and limited liability companies to make returns that include specified information.

This bill would require the Franchise Tax Board to prescribe the manner and extent to which the specified information shall be included in the returns, as provided.

(10) The Bank and Corporation Tax Law imposes a franchise tax on banks and financial corporations that is in lieu of all other state, county, and municipal taxes and licenses, except as specified. The in-lieu tax is imposed on banks because national banks are exempt from most local taxes. The “in-lieu” tax was extended to financial corporations for income years beginning on or after January 1, 1981. Existing law, for income years beginning on or after January 1, 1981, allows financial corporations to offset specified local taxes against the franchise tax and provides that the intent of those provisions is to minimize the difference between banks and financial corporations. Existing law provides that final action on the allowance of an offset under those provisions is deferred until a final court determination of whether charter cities may impose local taxes on financial corporations.



This bill would repeal those offset provisions as obsolete on the basis that financial corporations are exempt from local taxation to the same degree as banks. The bill would also make related and conforming changes.

(11) Existing law pertaining to the administration of franchise and income taxes requires all apportioning taxpayers to maintain specified information.

This bill would make a technical, nonsubstantive change to those provisions by deleting an obsolete reference.

(12) Existing law permits, until 1999, the referral of fines, state or local penalties, forfeitures, restitution fines, or restitution orders imposed by specified courts upon a person for criminal offenses under certain conditions to the Franchise Tax Board for collection under guidelines prescribed by that board. Amounts collected are deposited in the General Fund in the Court Collection Account, which is continuously appropriated for the purpose of distribution to the county or the state fund to which the amount was originally due.

This bill would extend that authority to 2002 *and to* other amounts imposed by those courts upon a person for criminal offenses. By providing for the collection of these other amounts which would be continuously appropriated, this bill would make an appropriation. *The bill would also make an appropriation to the Franchise Tax Board, in augmentation of the Budget Act of 1997, for the purpose of funding its court collection responsibilities. This bill would revise those provisions to provide that it is the intent of the Legislature that costs to the Franchise Tax Board to administer the provisions shall not exceed 15%, instead of 9%, of the amount it collects.*

This bill would also require that restitution orders may be referred to the Franchise Tax Board by a government entity that meets specified additional criteria. The bill would also provide that amounts collected pursuant to a restitution fine or restitution order be deposited and disbursed in accordance with the laws relating to reimbursement of the State Restitution Fund.

This bill would make other related ~~technical~~ and conforming changes ~~to those provisions~~.

(13) Existing laws relating to the administration of personal income and bank and corporation taxes provide for the allowance and payment of interest on any overpayment in respect of any tax, as specified, and require that any credit first be credited on any taxes due from the taxpayer under the Personal Income Tax Law or the Bank and Corporation Tax Law.

This bill would instead require that any credit first be credited on any amounts due from the taxpayer under those laws, *the Nonadmitted Insurance Tax Law*, or the laws relating to the administration of those laws. *This bill would also provide that a voluntary payment by an obligated parent for a child support delinquency would be applied solely to the child support delinquency.*

(14) The Bank and Corporation Tax Law provides that a corporation that incorporates under the laws of this state or qualifies to transact interstate business in this state shall prepay a specified minimum franchise tax of \$800, except for a qualified new corporation, as defined. Existing law defines a “qualified new corporation” as a corporation that reasonably estimates that, for the income year, it will have both gross receipts, less returns and allowances reportable to the state, of less than \$1,000,000 and a tax liability that does not exceed \$800. This exception does not apply to a corporation if 50% or more of its stock is owned by another corporation.

This bill would clarify that definition to instead refer to gross receipts, less returns and allowances reportable to the state, of \$1,000,000 or less. This bill would instead provide that the exception does not apply to a corporation if 50% or more of its stock is, or will be upon the initial issuance of stock, owned by another corporation.

(15) The Personal Income Tax Law, by reference to a specified federal statute, conforms to federal income tax laws relating to sales of stock to employee stock ownership plans or certain cooperatives.

This bill would, under the Bank and Corporation Tax Law, provide the same conformity to federal income tax laws relating to sales of stock to employee stock ownership plans or certain cooperatives.



(16) This bill would make technical changes in various provisions of the Personal Income Tax Law and the Bank and Corporation Tax Law regarding discharge of indebtedness and other provisions of law regarding disclosure of employee registry information to the Franchise Tax Board.

(17) Existing law defines the term “taxable year” for purposes of the Personal Income Tax Law, and also defines the term “income year” for purposes of the Bank and Corporation Tax Law. Existing law also specifies that the provisions of Chapter 952 of the Statutes of 1996, which contains various provisions in both the Personal Income Tax Law and the Bank and Corporation Tax Law, shall be applied to taxable years beginning on or after January 1, 1997.

This bill would instead specify that the provisions of Chapter 952 of the Statutes of 1996 shall be applied to both taxable and income years beginning on or after January 1, 1997.

(18) This bill would take effect immediately as a tax levy; however certain provisions would become operative, as specified, in a particular 1996 statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 30 of the Business and
2 Professions Code is amended to read:
3 30. (a) Notwithstanding any other provision of law,
4 any board, as defined in Section 22, and the State Bar and
5 the Department of Real Estate shall at the time of
6 issuance or renewal of the license require that any
7 licensee provide its federal employer identification
8 number if the licensee is a partnership or his or her social
9 security number for all others.
10 (b) Any licensee failing to provide the federal
11 identification number or social security number shall be
12 reported by the licensing board to the Franchise Tax
13 Board and, if failing to provide after notification pursuant
14 to paragraph (1) of subdivision (b) of Section 19528 of the
15 Revenue and Taxation Code, shall be subject to the

1 penalty provided in paragraph (2) of subdivision (b) of
2 Section 19528 of the Revenue and Taxation Code.

3 (c) In addition to the penalty specified in subdivision
4 (b), a licensing board may not process any application for
5 an original license or for renewal of a license unless the
6 applicant or licensee provides its federal employer
7 identification number or social security number where
8 requested on the application.

9 (d) A licensing board shall, upon request of the
10 Franchise Tax Board, furnish to the Franchise Tax Board
11 the following information with respect to every licensee:

12 (1) Name.

13 (2) Address or addresses of record.

14 (3) Federal employer identification number if the
15 entity is a partnership or social security number for all
16 others.

17 (4) Type of license.

18 (5) Effective date of license or renewal.

19 (6) Expiration date of license.

20 (7) Whether license is active or inactive, if known.

21 (8) Whether license is new or renewal.

22 (e) For the purposes of this section:

23 (1) "Licensee" means any entity, other than a
24 corporation, authorized by a license, certificate,
25 registration, or other means to engage in a business or
26 profession regulated by this code or referred to in Section
27 1000 or 3600.

28 (2) "License" includes a certificate, registration, or
29 any other authorization needed to engage in a business or
30 profession regulated by this code or referred to in Section
31 1000 or 3600.

32 (3) "Licensing board" means any board, as defined in
33 Section 22, the State Bar, and the Department of Real
34 Estate.

35 (f) The reports required under this section shall be
36 filed on magnetic media or in other machine-readable
37 form, according to standards furnished by the Franchise
38 Tax Board.

(g) Licensing boards shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.

(h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.

(i) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (k).

(j) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 11350.6 of the Welfare and Institutions Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

SEC. 2. Section 1666.5 of the Insurance Code is amended to read:

1666.5. (a) Notwithstanding any other provision of law, the commissioner shall at the time of issuance or renewal of any license under this chapter or Chapter 6 (commencing with Section 1760), Chapter 7

(commencing with Section 1800), or Chapter 8 (commencing with Section 1831) require that any licensee provide its federal employer identification number if the licensee is a partnership or his or her social security number for all others.

(b) Any licensee failing to provide the federal identification number or social security number shall be reported by the commissioner to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.

(c) The commissioner shall, upon request of the Franchise Tax Board, furnish to the board all of the following information with respect to every licensee:

(1) Licensee's name.

(2) Address or addresses of record.

(3) Federal employer identification number if the entity is a partnership or owner's name and social security number for all others.

(4) Type of license.

(5) Effective date of license or renewal.

(6) Expiration date of license.

(7) Whether license is active or inactive, if known.

(8) Whether license is new or renewal.

(d) For the purposes of this section:

(1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in the insurance business regulated by this code.

(2) "License" includes a certificate, registration, or any other authorization needed to engage in the insurance business regulated by this code.

(e) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.

(f) The commissioner shall begin providing to the Franchise Tax Board the information required by this

1 section as soon as economically feasible, but no later than
2 July 1, 1987. The information shall be furnished at a time
3 that the Franchise Tax Board may require.

4 (g) Notwithstanding Chapter 3.5 (commencing with
5 Section 6250) of Division 7 of Title 1 of the Government
6 Code, the information furnished pursuant to this section
7 shall not be deemed to be a public record and shall not be
8 open to the public for inspection.

9 (h) Any deputy, agent, clerk, officer, or employee of
10 the commissioner, or any former officer or employee or
11 other individual who in the course of his or her
12 employment or duty has or has had access to the
13 information required to be furnished under this section,
14 shall not disclose or make known in any manner that
15 information, except as provided in this section to the
16 Franchise Tax Board.

17 (i) It is the intent of the Legislature in enacting this
18 section to utilize the social security account number or
19 federal employer identification number for the purpose
20 of establishing the identification of persons affected by
21 state tax laws and, to that end, the information furnished
22 pursuant to this section shall be used exclusively for tax
23 enforcement purposes.

24 SEC. 3. *Section 1203.1d of the Penal Code is amended*
25 *to read:*

26 1203.1d. In determining the amount and manner of
27 disbursement under an order made pursuant to this code
28 requiring a defendant to make reparation or restitution
29 to a victim of a crime, to pay any money as
30 reimbursement for legal assistance provided by the court,
31 to pay any cost of probation or probation investigation, or
32 to pay any cost of jail or other confinement, or to pay any
33 other reimbursable costs, the court, after determining the
34 amount of any fine and penalty assessments, and a county
35 financial evaluation officer when making a financial
36 evaluation, shall first determine the amount of restitution
37 to be ordered paid to any victim, and shall then
38 determine the amount of the other reimbursable costs.

1 If payment is made in full, the payment shall be
2 apportioned and disbursed in the amounts ordered by the
3 court.

4 If reasonable and compatible with the defendant's
5 financial ability, the court may order payments to be
6 made in installments.

7 With respect to installment payments *and amounts*
8 *collected by the Franchise Tax Board pursuant to Section*
9 *19280 of the Revenue and Taxation Code*, the board of
10 supervisors may establish the priorities of payment, first
11 between fines, penalty assessments, and reparation or
12 restitution, and then between other reimbursable costs.
13 The board of supervisors may also establish priorities of
14 payment between orders or parts of orders in cases where
15 defendants have been ordered to pay more than one
16 court order.

17 Documentary evidence, ~~such~~ as bills, receipts, repair
18 estimates, insurance payment statements, payroll stubs,
19 business records, and similar documents relevant to the
20 value of the stolen or damaged property, medical
21 expenses, and wages and profits lost shall not be excluded
22 as hearsay evidence.

23 SEC. 3.5. Section 17053.49 of the Revenue and
24 Taxation Code is amended to read:

25 17053.49. (a) (1) A qualified taxpayer shall be
26 allowed a credit against the "net tax," as defined in
27 Section 17039, equal to 6 percent of the qualified cost of
28 qualified property that is placed in service in this state.

29 (2) In the case of any qualified costs paid or incurred
30 on or after January 1, 1994, and prior to the first taxable
31 year of the qualified taxpayer beginning on or after
32 January 1, 1995, the credit provided under paragraph (1)
33 shall be claimed by the qualified taxpayer on the qualified
34 taxpayer's return for the first taxable year beginning on
35 or after January 1, 1995. No credit shall be claimed under
36 this section on a return filed for any taxable year
37 commencing prior to the qualified taxpayer's first taxable
38 year beginning on or after January 1, 1995.

(b) (1) For purposes of this section, “qualified cost” means any cost that satisfies each of the following conditions:

(A) Except as otherwise provided in this subparagraph, is a cost paid or incurred by the qualified taxpayer for the construction, reconstruction, or acquisition of qualified property on or after January 1, 1994, and prior to the date this section ceases to be operative under paragraph (2) of subdivision (i). In the case of any qualified property constructed, reconstructed, or acquired by the qualified taxpayer (or any person related to the qualified taxpayer within the meaning of Section 267 or 707 of the Internal Revenue Code) pursuant to a binding contract in existence on or prior to January 1, 1994, costs paid pursuant to that contract shall be subject to allocation as follows: contract costs shall be allocated to qualified property based on a ratio of costs actually paid prior to January 1, 1994, and total contract costs actually paid. “Cost paid” shall include, without limitation, contractual deposits and option payments. To the extent of costs allocated, whether or not currently deductible or depreciable for tax purposes, to a period prior to January 1, 1994, the cost shall be deemed allocated to property acquired before January 1, 1994, and is thus not a “qualified cost.”

(B) Except as provided in paragraph (2) of subdivision (d) and subparagraph (B) of paragraph (3) of subdivision (d), is an amount upon which the qualified taxpayer has paid, directly or indirectly, as a separately stated contract amount or as determined from the records of the qualified taxpayer, sales or use tax under Part 1 (commencing with Section 6001).

(C) Is an amount properly chargeable to the capital account of the qualified taxpayer.

(2) (A) For purposes of this subdivision, any contract entered into on or after January 1, 1994, that is a successor or replacement contract to a contract that was binding prior to January 1, 1994, shall be treated as a binding contract in existence prior to January 1, 1994.

1 (B) If a successor or replacement contract is entered
2 into on or after January 1, 1994, and the subject of the
3 successor or replacement contract relates both to
4 amounts for the construction, reconstruction, or
5 acquisition of qualified property described in the original
6 binding contract and to costs for the construction,
7 reconstruction, or acquisition of qualified property not
8 described in the original binding contract, then the
9 portion of those amounts described in the successor or
10 replacement contract that were not described in the
11 original binding contract shall not be treated as costs paid
12 or incurred pursuant to a binding contract in existence on
13 or prior to January 1, 1994, under subparagraph (A) of
14 paragraph (1).

15 (3) (A) For purposes of this section, an option
16 contract in existence prior to January 1, 1994, under which
17 a qualified taxpayer (or any other person related to the
18 qualified taxpayer within the meaning of Section 267 or
19 707 of the Internal Revenue Code) had an option to
20 acquire qualified property, shall be treated as a binding
21 contract under the rules in paragraph (2). For purposes
22 of this subparagraph, an option contract shall not include
23 an option under which the option holder will forfeit an
24 amount less than 10 percent of the fixed option price in
25 the event the option is not exercised.

26 (B) For purposes of this section, a contract shall be
27 treated as binding even if the contract is subject to a
28 condition.

29 (c) (1) For purposes of this section, “qualified
30 taxpayer” means any taxpayer or partnership engaged in
31 those lines of business described in Codes 2011 to 3999,
32 inclusive, of the Standard Industrial Classification (SIC)
33 Manual published by the United States Office of
34 Management and Budget, 1987 edition.

35 (2) In the case of any passthrough entity, the
36 determination of whether a taxpayer is a qualified
37 taxpayer under this section shall be made at the entity
38 level and any credit under this section or Section 23649
39 shall be allowed to the passthrough entity and passed
40 through to the partners or shareholders in accordance



1 with applicable provisions of Part 10 (commencing with
2 Section 17001) or Part 11 (commencing with Section
3 23001). For purposes of this paragraph, the term
4 “passthrough entity” means any partnership or S
5 corporation.

6 (3) The Franchise Tax Board may prescribe
7 regulations to carry out the purposes of this section,
8 including any regulations necessary to prevent the
9 avoidance of the effect of this section through splitups,
10 shell corporations, partnerships, tiered ownership
11 structures, sale-leaseback transactions, or otherwise.

12 (d) For purposes of this section, “qualified property”
13 means property that is described as either of the
14 following:

15 (1) Tangible personal property that is defined in
16 Section 1245(a) of the Internal Revenue Code for use by
17 a qualified taxpayer in those lines of business described in
18 Codes 2011 to 3999, inclusive, of the Standard Industrial
19 Classification (SIC) Manual published by the United
20 States Office of Management and Budget, 1987 edition,
21 that is primarily used for any of the following:

22 (A) For the manufacturing, processing, refining,
23 fabricating, or recycling of property, beginning at the
24 point at which any raw materials are received by the
25 qualified taxpayer and introduced into the process and
26 ending at the point at which the manufacturing,
27 processing, refining, fabricating, or recycling has altered
28 tangible personal property to its completed form,
29 including packaging, if required.

30 (B) In research and development.

31 (C) To maintain, repair, measure, or test any property
32 described in this paragraph.

33 (D) For pollution control that meets or exceeds
34 standards established by the state or by any local or
35 regional governmental agency within the state.

36 (E) For recycling.

37 (2) The value of any capitalized labor costs that are
38 directly allocable to the construction or modification of
39 property described in paragraph (1).

1 (3) In the case of any qualified taxpayer engaged in
2 manufacturing activities described in SIC Code 357 or
3 367, those activities related to biotechnology described in
4 SIC Code 8731, those activities related to
5 biopharmaceutical establishments only that are
6 described in SIC Codes 2833 to 2836, inclusive, those
7 activities related to space vehicles and parts described in
8 SIC Codes 3761 to 3769, inclusive, those activities related
9 to space satellites and communications satellites and
10 equipment described in SIC Codes 3663 and 3812 (but
11 only with respect to “qualified property” that is placed in
12 service on or after January 1, 1996), or those activities
13 related to semiconductor equipment manufacturing
14 described in SIC Code 3559 (but only with respect to
15 “qualified property” that is placed in service on or after
16 January 1, 1997), “qualified property” also includes the
17 following:

18 (A) Special purpose buildings and foundations that are
19 constructed or modified for use by the qualified taxpayer
20 primarily in a manufacturing, processing, refining, or
21 fabricating process, or as a research or storage facility
22 primarily used in connection with a manufacturing
23 process.

24 (B) The value of any capitalized labor costs that are
25 directly allocable to the construction or modification of
26 special purpose buildings and foundations that are used
27 primarily in the manufacturing, processing, refining, or
28 fabricating process, or as a research or storage facility
29 primarily used in connection with a manufacturing
30 process.

31 (C) (i) For purposes of this paragraph, “special
32 purpose building and foundation” means only a building
33 and the foundation immediately underlying the building
34 that is specifically designed and constructed or
35 reconstructed for the installation, operation, and use of
36 specific machinery and equipment with a special
37 purpose, which machinery and equipment, after
38 installation, will become affixed to or a fixture of the real
39 property, and the construction or reconstruction of which
40 is specifically designed and used exclusively for the

1 specified purposes as set forth in subparagraph (A)
2 (“qualified purpose”).

3 (ii) A building is specifically designed and constructed
4 or modified for a qualified purpose if it is not economical
5 to design and construct the building for the intended
6 purpose and then use the structure for a different
7 purpose.

8 (iii) For purposes of clause (i) and clause (vi), a
9 building is used exclusively for a qualified purpose only if
10 its use does not include a use for which it was not
11 specifically designed and constructed or modified.
12 Incidental use of a building for nonqualified purposes
13 does not preclude the building from being a special
14 purpose building. “Incidental use” means a use which is
15 both related and subordinate to the qualified purpose. It
16 will be conclusively presumed that a use is not
17 subordinate if more than one-third of the total usable
18 volume of the building is devoted to a use which is not a
19 qualified purpose.

20 (iv) In the event an entire building does not qualify as
21 a special purpose building, a taxpayer may establish that
22 a portion of a building, and the foundation immediately
23 underlying the portion, qualifies for treatment as a special
24 purpose building and foundation if the portion satisfies all
25 of the definitional provisions in this subparagraph.

26 (v) To the extent that a building is not a special
27 purpose building as defined above, but a portion of the
28 building qualifies for treatment as a special purpose
29 building, then all equipment which exclusively supports
30 the qualified purpose occurring within that portion and
31 which would qualify as Internal Revenue Code Section
32 1245 property if it were not a fixture or affixed to the
33 building shall be treated as a cost of the portion of the
34 building which qualifies for treatment as a special
35 purpose building.

36 (vi) Buildings and foundations which do not meet the
37 definition of a special purpose building and foundation set
38 forth above include, but are not limited to: buildings
39 designed and constructed or reconstructed principally to
40 function as a general purpose manufacturing, industrial,

1 or commercial building; research facilities that are used
2 primarily prior to or after, or prior to and after, the
3 manufacturing process; or storage facilities that are used
4 primarily prior to or after, or prior to and after,
5 completion of the manufacturing process. A research
6 facility shall not be considered to be used primarily prior
7 to or after, or prior to and after, the manufacturing
8 process if its purpose and use relate exclusively to the
9 development and regulatory approval of the
10 manufacturing process for specific biopharmaceutical
11 products. A research facility which is used primarily in
12 connection with the discovery of an organism from which
13 a biopharmaceutical product or process is developed does
14 not meet the requirements of the preceding sentence.

15 (4) Subject to the provisions in subparagraph (B) of
16 paragraph (1) of subdivision (b), qualified property also
17 includes computer software that is primarily used for
18 those purposes set forth in paragraph (1) of this
19 subdivision.

20 (5) Qualified property does not include any of the
21 following:

22 (A) Furniture.

23 (B) Facilities used for warehousing purposes after
24 completion of the manufacturing process.

25 (C) Inventory.

26 (D) Equipment used in the extraction process.

27 (E) Equipment used to store finished products that
28 have completed the manufacturing process.

29 (F) Any tangible personal property that is used in
30 administration, general management, or marketing.

31 (G) Any vehicle for which a credit is claimed pursuant
32 to Section 17052.11 or 23603.

33 (e) For purposes of this section:

34 (1) "Biopharmaceutical activities" means those
35 activities which use organisms or materials derived from
36 organisms, and their cellular, subcellular, or molecular
37 components, in order to provide pharmaceutical
38 products for human or animal therapeutics and
39 diagnostics. Biopharmaceutical activities make use of
40 living organisms to make commercial products, as

1 opposed to pharmaceutical activities which make use of
2 chemical compounds to produce commercial products.

3 (2) “Fabricating” means to make, build, create,
4 produce, or assemble components or property to work in
5 a new or different manner.

6 (3) “Manufacturing” means the activity of converting
7 or conditioning property by changing the form,
8 composition, quality, or character of the property for
9 ultimate sale at retail or use in the manufacturing of a
10 product to be ultimately sold at retail. Manufacturing
11 includes any improvements to tangible personal property
12 that result in a greater service life or greater functionality
13 than that of the original property.

14 (4) “Other biotechnology activities” means activities
15 consisting of the application of recombinant DNA
16 technology to produce commercial products, as well as
17 activities regarding pharmaceutical delivery systems
18 designed to provide a measure of control over the rate,
19 duration, and site of pharmaceutical delivery.

20 (5) “Primarily” means tangible personal property
21 used 50 percent or more of the time in an activity
22 described in subdivision (d).

23 (6) “Process” means the period beginning at the point
24 at which any raw materials are received by the qualified
25 taxpayer and introduced into the manufacturing,
26 processing, refining, fabricating, or recycling activity of
27 the qualified taxpayer and ending at the point at which
28 the manufacturing, processing, refining, fabricating, or
29 recycling activity of the qualified taxpayer has altered
30 tangible personal property to its completed form,
31 including packaging, if required. Raw materials shall be
32 considered to have been introduced into the process
33 when the raw materials are stored on the same premises
34 where the qualified taxpayer’s manufacturing,
35 processing, refining, or recycling activity is conducted.
36 Raw materials that are stored on premises other than
37 where the qualified taxpayer’s manufacturing,
38 processing, refining, fabricating, or recycling activity is
39 conducted, shall not be considered to have been

1 introduced into the manufacturing, processing, refining,
2 fabricating, or recycling process.

3 (7) “Processing” means the physical application of the
4 materials and labor necessary to modify or change the
5 characteristics of property.

6 (8) “Refining” means the process of converting a
7 natural resource to an intermediate or finished product.

8 (9) “Research and development” means those
9 activities that are described in Section 174 of the Internal
10 Revenue Code or in any regulations thereunder.

11 (10) “Small business” means a qualified taxpayer that
12 meets any of the following requirements during the
13 taxable year for which the credit is allowed:

14 (A) Has gross receipts of less than fifty million dollars
15 (\$50,000,000).

16 (B) Has net assets of less than fifty million dollars
17 (\$50,000,000).

18 (C) Has a total credit of less than one million dollars
19 (\$1,000,000).

20 (D) For taxable years beginning on or after January 1,
21 1997, is engaged in biopharmaceutical activities or other
22 biotechnology activities that are described in Codes 2833
23 to 2836, inclusive, of the Standard Industrial Classification
24 (SIC) Manual published by the United States Office of
25 Management and Budget, 1987 edition, and has not
26 received regulatory approval for any product from the
27 United States Food and Drug Administration.

28 (f) The credit allowed under subdivision (a) shall
29 apply to qualified property that is acquired by or subject
30 to lease by a qualified taxpayer, subject to the following
31 special rules:

32 (1) A lessor of qualified property, irrespective of
33 whether the lessor is a qualified taxpayer, shall not be
34 allowed the credit provided under subdivision (a) with
35 respect to any qualified property leased to another
36 qualified taxpayer.

37 (2) For purposes of paragraphs (2) and (3) of
38 subdivision (b), “binding contract” shall include any
39 lease agreement with respect to the qualified property.

(3) (A) For purposes of determining the qualified cost paid or incurred by a lessee in any leasing transaction that is not treated as a sale under Part 1 (commencing with Section 6001), the following rules shall apply:

(i) Except as provided by subparagraph (C) of this paragraph, subparagraphs (A) and (C) of paragraph (1) of subdivision (b) shall not apply.

(ii) Except as provided in subparagraph (B) and clause (iii), the “qualified cost” upon which the lessee shall compute the credit provided under this section shall be equal to the original cost to the lessor (within the meaning of Section 18031) of the qualified property that is the subject of the lease.

(iii) Except as provided in clause (iv), the requirement of subparagraph (B) of paragraph (1) of subdivision (b) shall be treated as satisfied only if the lessor has made a timely election under either Section 6094.1 or subdivision (d) of Section 6244 and has paid sales tax reimbursement or use tax measured by the purchase price of the qualified property (within the meaning of paragraph (5) of subdivision (g) of Section 6006). For purposes of this subdivision and clause (iv), the amount of original cost to the lessor which may be taken into account under clause (ii) shall not exceed the purchase price upon which sales tax reimbursement or use tax has been paid under the preceding sentence or under clause (iv).

(iv) With respect to leases entered into between January 1, 1994, and the effective date of this clause, the lessor may elect to pay use tax measured by the purchase price of the property by reporting and paying the tax with the return of the lessor for the fourth calendar quarter of 1994. In computing the use tax under the preceding sentence, a credit shall be allowed under Part 1 (commencing with Section 6001) for all sales or use tax previously paid on the lease.

(B) For purposes of applying subparagraph (A) only, the following special rules shall apply:

(i) The original cost to the lessor of the qualified property shall be reduced by the amount of any original

1 cost of that property that was taken into account by any
2 predecessor lessee in computing the credit allowable
3 under this section.

4 (ii) Clause (i) shall not apply in any case where the
5 predecessor lessee was required to recapture the credit
6 provided under this section pursuant to the provisions of
7 subdivision (g).

8 (iii) For purposes of this section only, in any case
9 where a successor lessor has acquired qualified property
10 from a predecessor lessor in a transaction not treated as
11 a sale under Part 1 (commencing with Section 6001), the
12 original cost to the successor lessor of the qualified
13 property shall be reduced by the amount of the original
14 cost of the qualified property that was taken into account
15 by any lessee of the predecessor lessor in computing the
16 credit allowable under this section.

17 (C) In determining the original cost of any qualified
18 property under this paragraph, only amounts paid or
19 incurred by the lessor on or after January 1, 1994, and
20 prior to the date this section ceases to be operative under
21 paragraph (2) of subdivision (i), shall be taken into
22 account. In the case of any qualified property
23 constructed, reconstructed, or acquired by a lessor
24 pursuant to a binding contract in existence on or prior to
25 January 1, 1994, the allocation rule specified in
26 subparagraph (A) of paragraph (1) of subdivision (b)
27 shall apply in determining the original cost to the lessor
28 of qualified property.

29 (D) Notwithstanding subparagraph (A), in the case of
30 any leasing transaction for which the lessee is allowed the
31 credit under this section and thereafter the lessee (or any
32 party related to the lessee within the meaning of Section
33 267 or 318 of the Internal Revenue Code) acquires the
34 qualified property from the lessor (or any successor
35 lessor) within one year from the date the qualified
36 property is first used by the lessee under the terms of the
37 lease, the lessee's (or related party's) acquisition of the
38 qualified property from the lessor (or successor lessor)
39 shall be treated as a disposition by the lessee of the



1 qualified property that was subject to the lease under
2 subdivision (g).

3 (4) For purposes of determining the qualified cost
4 paid or incurred by a lessee in any leasing transaction that
5 is treated as a sale under Part 1 (commencing with
6 Section 6001), the following rules shall apply:

7 (A) Subparagraph (A) of paragraph (1) of subdivision
8 (b) shall be applied by substituting the term “purchase”
9 for the term “construction, reconstruction, or
10 acquisition.”

11 (B) Subparagraph (C) of paragraph (1) of subdivision
12 (b) shall apply.

13 (C) The requirement of subparagraph (B) of
14 paragraph (1) of subdivision (b) shall be treated as
15 satisfied at the time that either the lessor or the qualified
16 taxpayer pays sales or use tax under Part 1 (commencing
17 with Section 6001).

18 (5) (A) In the case of any leasing transaction
19 described in paragraph (3), the lessor shall provide a
20 statement to the lessee specifying the amount of the
21 lessor’s original cost of the qualified property and the
22 amount of that cost upon which a sales or use tax was paid
23 within 45 days after the close of the lessee’s taxable year
24 in which the credit is allowable to the lessee under this
25 section.

26 (B) The statement required under subparagraph (A)
27 shall be made available to the Franchise Tax Board upon
28 request.

29 (g) No credit shall be allowed if the qualified property
30 is removed from the state, is disposed of to an unrelated
31 party, or is used for any purpose not qualifying for the
32 credit provided in this section in the same taxable year in
33 which the qualified property is first placed in service in
34 this state. If any qualified property for which a credit is
35 allowed pursuant to this section is thereafter removed
36 from this state, disposed of to an unrelated party, or used
37 for any purpose not qualifying for the credit provided in
38 this section within one year from the date the qualified
39 property is first placed in service in this state, the amount
40 of the credit allowed by this section for that qualified

1 property shall be recaptured by adding that credit
2 amount to the net tax of the qualified taxpayer for the
3 taxable year in which the qualified property is disposed
4 of, removed, or put to an ineligible use.

5 (h) In the case where the credit allowed by this section
6 exceeds the “net tax,” the excess may be carried over to
7 reduce the “net tax” in the following year, and
8 succeeding years as follows:

9 (1) Except as provided in paragraph (2), for the seven
10 succeeding years if necessary, until the credit is
11 exhausted.

12 (2) In the case of a small business, for the nine
13 succeeding years, if necessary, until the credit is
14 exhausted.

15 (i) (1) This section shall remain in effect until the
16 date specified in paragraph (2), on which date this section
17 shall cease to be operative, and as of that date is repealed.
18 However, any unused credit may continue to be carried
19 forward, as provided in subdivision (h), until the credit
20 is exhausted.

21 (2) (A) This section shall cease to be operative on
22 January 1, 2001, or on January 1 of the earliest year
23 thereafter, if the total employment in this state, as
24 determined by the Employment Development
25 Department on the preceding January 1, does not exceed
26 by 100,000 jobs the total employment in this state on
27 January 1, 1994. The department shall report to the
28 Legislature annually with respect to the determination
29 required by the preceding sentence.

30 (B) For purposes of this paragraph, “total
31 employment” means the total employment in the
32 manufacturing sector, excluding employment in the
33 aerospace sector.

34 (j) The amendments made by the act adding this
35 subdivision shall be operative for taxable years beginning
36 on or after January 1, 1997, except as provided in
37 paragraph (3) of subdivision (d).

38 SEC. 4. Section 17062 of the Revenue and Taxation
39 Code is amended to read:



1 17062. (a) In addition to the other taxes imposed by
2 this part, there is hereby imposed for each taxable year,
3 a tax equal to the excess, if any, of—

4 (1) The tentative minimum tax for the taxable year,
5 over

6 (2) The regular tax for the taxable year.

7 (b) For purposes of this chapter, each of the following
8 shall apply:

9 (1) The tentative minimum tax shall be computed in
10 accordance with Sections 55 to 59, inclusive, of the
11 Internal Revenue Code, except as otherwise provided in
12 this part.

13 (2) The regular tax shall be the amount of tax imposed
14 by Section 17041 or 17048, before reduction for any credits
15 against the tax, less any amount imposed under
16 paragraph (1) of subdivision (d) and paragraph (1) of
17 subdivision (e) of Section 17560.

18 (3) (A) The provisions of Section 55(b)(1) of the
19 Internal Revenue Code shall be modified to provide that
20 the tentative minimum tax for the taxable year shall be
21 equal to the following percent of so much of the
22 alternative minimum taxable income for the taxable year
23 as exceeds the exemption amount, before reduction for
24 any credits against the tax:

25 (i) For any taxable year beginning on or after January
26 1, 1991, and before January 1, 1996, 8.5 percent.

27 (ii) For any taxable year beginning on or after January
28 1, 1996, 7 percent.

29 (B) In the case of a nonresident or part-year resident,
30 the tentative minimum tax shall be computed as if the
31 nonresident or part-year resident were a resident for the
32 entire year multiplied by the ratio of California adjusted
33 gross income (as modified for purposes of this chapter) to
34 total adjusted gross income from all sources (as modified
35 for purposes of this chapter). For purposes of computing
36 the tax under subparagraph (A) and gross income from
37 all sources, the net operating loss deduction provided in
38 Section 56(d) of the Internal Revenue Code shall be
39 computed as if the taxpayer were a resident for all prior
40 years.

(C) For purposes of this section, the term “California adjusted gross income” includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, only those items of adjusted gross income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(4) The provisions of Section 55(b)(2) of the Internal Revenue Code, relating to alternative minimum taxable income, shall be modified to provide that alternative minimum taxable income shall not include the income, adjustments, and items of tax preference attributable to any trade or business of a qualified taxpayer.

(A) For purposes of this paragraph, “qualified taxpayer” means a taxpayer who meets both of the following:

(i) Is the owner of, or has an ownership interest in, a trade or business.

(ii) Has aggregate gross receipts, less returns and allowances, of less than one million dollars (\$1,000,000) during the taxable year from all trades or businesses of which the taxpayer is the owner or has an ownership interest, in the amount of that taxpayer’s proportionate interest in each trade or business.

(B) For purposes of this paragraph, “aggregate gross receipts, less returns and allowances” means the sum of the gross receipts of the trades or businesses which the taxpayer owns and the proportionate interest of the gross receipts of the trades or businesses which the taxpayer owns and of passthrough entities in which the taxpayer holds an interest.

(C) For purposes of this paragraph, “gross receipts, less returns and allowances” means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross

1 receipts from the production of nonbusiness income, as
2 defined in subdivision (d) of Section 25120.

3 (D) For purposes of this paragraph, “proportionate
4 interest” means:

5 (i) In the case of a passthrough entity which reports a
6 profit for the taxable or income year, the taxpayer’s profit
7 interest in the entity at the end of the taxpayer’s taxable
8 year.

9 (ii) In the case of a passthrough entity which reports
10 a loss for the taxable or income year, the taxpayer’s loss
11 interest in the entity at the end of the taxpayer’s taxable
12 year.

13 (iii) In the case of a passthrough entity which is sold or
14 liquidates during the taxable or income year, the
15 taxpayer’s capital account interest in the entity at the
16 time of the sale or liquidation.

17 (E) (i) For purposes of this paragraph,
18 “proportionate interest” includes an interest in a
19 passthrough entity.

20 (ii) For purposes of this paragraph, “passthrough
21 entity” means any of the following:

22 (I) A partnership, as defined by Section 17008.

23 (II) An S corporation, as provided in Chapter 4.5
24 (commencing with Section 23800) of Part 11.

25 (III) A regulated investment company, as provided in
26 Section 24871.

27 (IV) A real estate investment trust, as provided in
28 Section 24872.

29 (V) A real estate mortgage investment conduit, as
30 provided in Section 24874.

31 (c) (1) Section 56(b)(1)(E) of the Internal Revenue
32 Code, relating to standard deduction and deduction for
33 personal exemptions not allowed, is modified, for
34 purposes of this part, to deny the standard deduction
35 allowed by Section 17073.5.

36 (2) Section 56(b)(3) of the Internal Revenue Code,
37 relating to treatment of incentive stock options, shall be
38 modified to additionally provide the following:

39 (A) Section 421 of the Internal Revenue Code shall not
40 apply to the transfer of stock acquired pursuant to the

1 exercise of a California qualified stock option under
2 Section 17502.

3 (B) Section 422(c)(2) of the Internal Revenue Code
4 shall apply in any case where the disposition and inclusion
5 of a California qualified stock option for purposes of this
6 chapter are within the same taxable year and that section
7 shall not apply in any other case.

8 (C) The adjusted basis of any stock acquired by the
9 exercise of a California qualified stock option shall be
10 determined on the basis of the treatment prescribed by
11 this paragraph.

12 (3) The provisions of Section 56(h) of the Internal
13 Revenue Code, relating to adjustment based on energy
14 preferences, shall not apply.

15 (d) The provisions of Section 57(a)(5) of the Internal
16 Revenue Code, relating to tax-exempt interest shall not
17 apply.

18 (e) The last two sentences of Section 57(a)(6)(B) of
19 the Internal Revenue Code, relating to tangible personal
20 property, shall not apply.

21 (f) Section 57(a) of the Internal Revenue Code,
22 relating to items of tax preference, is modified to include
23 as an item of tax preference an amount equal to one-half
24 of the amount excluded from gross income for the taxable
25 year under Section 18152.5.

26 (g) The provisions of Section 59(a) of the Internal
27 Revenue Code, relating to the alternative minimum tax
28 foreign tax credit, shall not apply.

29 SEC. 5. Section 17220 of the Revenue and Taxation
30 Code is amended to read:

31 17220. (a) Section 164(a)(3) of the Internal Revenue
32 Code, relating to the deductibility of state, local, and
33 foreign income, war profits, and excess profits taxes, shall
34 not apply.

35 (b) In addition to the provisions of Section 164(c) of
36 the Internal Revenue Code, relating to deduction denied
37 in case of certain taxes, no deduction shall be allowed for
38 any tax imposed under Chapter 10.5 (commencing with
39 Section 17935), Chapter 10.6 (commencing with Section
40 17941), or Chapter 10.7 (commencing with Section



1 17951) of this part or under Part 11 (commencing with
2 Section 23001).

3 SEC. 6. Section 17276.2 of the Revenue and Taxation
4 Code is amended to read:

5 17276.2. The term “qualified taxpayer” as used in
6 Section 17276.1 means any of the following:

7 (a) A person or entity engaged in the conduct of a
8 trade or business within an enterprise zone designated
9 pursuant to Chapter 12.8 (commencing with Section
10 7070) of Division 7 of Title 1 of the Government Code.

11 (1) A net operating loss shall not be a net operating loss
12 carryback to any taxable year and a net operating loss for
13 any taxable year beginning on or after the date that the
14 area in which the taxpayer conducts a trade or business
15 is designated as an enterprise zone shall be a net
16 operating loss carryover to each of the 15 taxable years
17 following the taxable year of loss.

18 (2) For purposes of this subdivision:

19 (A) “Net operating loss” means the loss determined
20 under Section 172 of the Internal Revenue Code, as
21 modified by Section 17276.1, attributable to the taxpayer’s
22 business activities within the enterprise zone (as defined
23 in Chapter 12.8 (commencing with Section 7070) of
24 Division 7 of Title 1 of the Government Code) prior to the
25 enterprise zone expiration date. That attributable loss
26 shall be determined in accordance with the provisions of
27 Chapter 17 (commencing with Section 25101) of Part 11,
28 modified for purposes of this section by substituting
29 “enterprise zone” for “this state.”

30 (B) A net operating loss carryover shall be a deduction
31 only with respect to the taxpayer’s business income
32 attributable to the enterprise zone (as defined in Chapter
33 12.8 (commencing with Section 7070) of Division 7 of
34 Title 1 of the Government Code) determined in
35 accordance with the provisions of Chapter 17
36 (commencing with Section 25101) of Part 11, modified for
37 purposes of this section by substituting “enterprise zone”
38 for “this state.”

39 (C) If a loss carryover is allowable pursuant to this
40 section for any taxable year after the enterprise zone

1 designation has expired, the enterprise zone shall be
2 deemed to remain in existence for purposes of computing
3 the limitation set forth in subparagraph (B) and allowing
4 a net operating loss deduction.

5 (D) “Enterprise zone expiration date” means the date
6 the enterprise zone designation expires, is no longer
7 binding, or becomes inoperative.

8 (b) A person or entity engaged in the conduct of a
9 trade or business within the Los Angeles Revitalization
10 Zone designated pursuant to Section 7102 of the
11 Government Code.

12 (1) A net operating loss shall not be a net operating loss
13 carryback for any taxable year, and a net operating loss
14 for any taxable year beginning on or after the date the
15 area in which the taxpayer conducts a trade or business
16 is designated the Los Angeles Revitalization Zone shall be
17 a net operating loss carryover to each following taxable
18 year that ends before the Los Angeles Revitalization
19 Zone expiration date or to each of the 15 taxable years
20 following the taxable year of loss, if longer.

21 (2) For the purposes of this subdivision:

22 (A) “Net operating loss” means the loss determined
23 under Section 172 of the Internal Revenue Code, as
24 modified by Section 17276.1, attributable to the taxpayer’s
25 business activities within the Los Angeles Revitalization
26 Zone (as defined in Section 7102 of the Government
27 Code) prior to the Los Angeles Revitalization Zone
28 expiration date. The attributable loss shall be determined
29 in accordance with the provisions of Chapter 17
30 (commencing with Section 25101) of Part 11, modified as
31 follows:

32 (i) Loss shall be apportioned to the Los Angeles
33 Revitalization Zone by multiplying total loss from the
34 business by a fraction, the numerator of which is the
35 property factor plus the payroll factor, and the
36 denominator of which is two.

37 (ii) “The Los Angeles Revitalization Zone” shall be
38 substituted for “this state.”

39 (B) A net operating loss carryover shall be a deduction
40 only with respect to the taxpayer’s business income

1 attributable to the Los Angeles Revitalization Zone (as
2 defined in Section 7102 of the Government Code)
3 determined in accordance with the provisions of
4 paragraph (3).

5 (C) If a loss carryover is allowable pursuant to this
6 section for any taxable year after the Los Angeles
7 Revitalization Zone designation has expired, the Los
8 Angeles Revitalization Zone shall be deemed to remain
9 in existence for purposes of computing the limitation set
10 forth in subparagraph (B) and allowing a net operating
11 loss deduction.

12 (3) Attributable income shall be that portion of the
13 taxpayer's California source business income which is
14 apportioned to the Los Angeles Revitalization Zone. For
15 that purpose, the taxpayer's business income attributable
16 to sources in this state first shall be determined in
17 accordance with the provisions of Chapter 17
18 (commencing with Section 25101) of Part 11. That
19 business income shall be further apportioned to the Los
20 Angeles Revitalization Zone in accordance with the
21 provisions of Article 2 (commencing with Section 25120)
22 of Chapter 17 of Part 11, modified as follows:

23 (A) Business income shall be apportioned to the Los
24 Angeles Revitalization Zone by multiplying total
25 California business income of the taxpayer by a fraction,
26 the numerator of which is the property factor plus the
27 payroll factor, and the denominator of which is two.

28 (B) The property factor is a fraction, the numerator of
29 which is the average value of the taxpayer's real and
30 tangible personal property owned or rented and used in
31 the Los Angeles Revitalization Zone during the taxable
32 year and the denominator of which is the average value
33 of all the taxpayer's real and tangible personal property
34 owned or rented and used in this state during the taxable
35 year.

36 (C) The payroll factor is a fraction, the numerator of
37 which is the total amount paid by the taxpayer in the Los
38 Angeles Revitalization Zone during the taxable year for
39 compensation, and the denominator of which is the total

1 compensation paid by the taxpayer in this state during the
2 taxable year.

3 (4) “Los Angeles Revitalization Zone expiration date”
4 means the date the Los Angeles Revitalization Zone
5 designation expires, is repealed, or becomes inoperative
6 pursuant to Section 7102, 7103, or 7104 of the Government
7 Code.

8 (5) This subdivision shall be inoperative on the first
9 day of the taxable year beginning on or after the
10 determination date, and each taxable year thereafter,
11 with respect to the taxpayer’s business activities within a
12 geographic area that is excluded from the map pursuant
13 to Section 7102 of the Government Code, or an excluded
14 area determined pursuant to Section 7104 of the
15 Government Code. The determination date is the earlier
16 of the first effective date of a determination under
17 subdivision (c) of Section 7102 of the Government Code
18 occurring after December 1, 1994, or the first effective
19 date of an exclusion of an area from the amended Los
20 Angeles Revitalization Zone under Section 7104 of the
21 Government Code. However, if the taxpayer has any
22 unused loss amount as of the date this section becomes
23 inoperative, that unused loss amount may continue to be
24 carried forward as provided in this subdivision.

25 (6) This subdivision shall cease to be operative on
26 January 1, 1998. However, any unused net operating loss
27 may continue to be carried over to following years as
28 provided in this subdivision.

29 (c) For each taxable year beginning on or after
30 January 1, 1995, and before January 1, 2003, a taxpayer
31 engaged in the conduct of a trade or business within a
32 LAMBRA.

33 (1) A net operating loss shall not be a net operating loss
34 carryback for any taxable year, and a net operating loss
35 for any taxable year beginning on or after the date the
36 area in which the taxpayer conducts a trade or business
37 is designated a LAMBRA shall be a net operating loss
38 carryover to each following taxable year that ends before
39 the LAMBRA expiration date or to each of the 15 taxable
40 years following the taxable year of loss, if longer.

(2) For the purposes of this subdivision:

(A) “LAMBRA” means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(B) “Taxpayer” means a person or entity that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA and this state.

(i) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. The deduction shall be allowed only if the taxpayer has a net increase in jobs in the state, and if one or more full-time employees is employed within the LAMBRA.

(ii) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(I) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(II) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(iii) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of subclauses (I) and (II), respectively, of clause (ii) the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer

1 was doing business in the LAMBRA and the denominator
2 of which is 12.

3 (C) “Net operating loss” means the loss determined
4 under Section 172 of the Internal Revenue Code, as
5 modified by Section 17276.1, attributable to the taxpayer’s
6 business activities within a LAMBRA prior to the
7 LAMBRA expiration date. The attributable loss shall be
8 determined in accordance with the provisions of Chapter
9 17 (commencing with Section 25101) of Part 11, modified
10 as follows:

11 (i) Loss shall be apportioned to a LAMBRA by
12 multiplying total loss from the business by a fraction, the
13 numerator of which is the property factor plus the payroll
14 factor, and the denominator of which is two.

15 (ii) “The LAMBRA” shall be substituted for “this
16 state.”

17 (D) A net operating loss carryover shall be a deduction
18 only with respect to the taxpayer’s business income
19 attributable to a LAMBRA determined in accordance
20 with the provisions of Chapter 17 (commencing with
21 Section 25101) of Part 11, modified as follows:

22 (i) Business income shall be apportioned to a
23 LAMBRA by multiplying total business income by a
24 fraction, the numerator of which is the property factor
25 plus the payroll factor, and the denominator of which is
26 two.

27 (ii) “The LAMBRA” shall be substituted for “this
28 state.”

29 (iii) If a loss carryover is allowable pursuant to this
30 section for any taxable year after the LAMBRA
31 designation has expired, the LAMBRA shall be deemed
32 to remain in existence for purposes of computing this
33 limitation.

34 (E) “LAMBRA expiration date” means the date the
35 LAMBRA designation expires, is no longer binding, or
36 becomes inoperative pursuant to Section 7110 of the
37 Government Code.

38 (d) A taxpayer who qualifies as a “qualified taxpayer”
39 shall, for the taxable year of the net operating loss and any
40 taxable year to which that net operating loss may be

1 carried, designate on the original return filed for each
2 year the subdivision of this section which applies to that
3 taxpayer with respect to that net operating loss. If the
4 taxpayer is eligible to qualify under more than one
5 subdivision of this section, the designation is to be made
6 after taking into account subdivision (e).

7 (e) If a taxpayer is eligible to qualify under more than
8 one subdivision of this section as a “qualified taxpayer,”
9 with respect to a net operating loss in a taxable year, the
10 taxpayer shall designate which subdivision of this section
11 is to apply to the taxpayer.

12 (f) Notwithstanding Section 17276, the amount of the
13 loss determined under this section shall be the only net
14 operating loss allowed to be carried over from that
15 taxable year and the designation under subdivision (d)
16 shall be included in the election under Section 17276.1.

17 SEC. 7. Section 17502 of the Revenue and Taxation
18 Code is amended to read:

19 17502. (a) In addition to the application of Part II
20 (commencing with Section 421) of Subchapter D of
21 Chapter 1 of Subtitle A of the Internal Revenue Code,
22 relating to certain stock options, paragraphs (1), (2), and
23 (3) of Section 421(a) of the Internal Revenue Code shall
24 also apply to any California qualified stock option that is
25 granted to an individual whose earned income from the
26 corporation granting the California qualified stock option
27 for the taxable year in which that option is exercised does
28 not exceed forty thousand dollars (\$40,000). In the event
29 that the option does not meet the necessary
30 qualifications, the option shall be treated as a
31 nonqualified stock option.

32 (b) For purposes of this section, “California qualified
33 stock option” means a stock option that is issued and
34 exercised pursuant to this section and that is designated
35 by the corporation issuing the option as a California
36 qualified stock option at the time the option is granted.

37 (c) (1) This section shall apply only to those stock
38 options that are issued on or after January 1, 1997, and
39 before January 1, 2002, by a corporation to its employee
40 and are exercised by the employee, while employed by

1 the corporation that issued those stock options (or within
2 three months thereof, or within one year thereof if
3 permanently and totally disabled as defined in Section
4 22(e)(3) of the Internal Revenue Code), during the
5 taxable year with respect to any class of shares, or
6 combination thereof, issued by the corporation, to the
7 extent that the number of shares transferable by the
8 exercise of the options does not exceed a total of 1,000 and
9 have a combined fair market value of less than one
10 hundred thousand dollars (\$100,000). The combined fair
11 market value of any stock shall be determined as of the
12 time the option with respect to that stock is granted.

13 (2) Paragraph (1) shall be applied by taking options
14 into account in the order in which they were granted.

15 (d) In the case of a California qualified stock option, no
16 amount shall be included in the gross income of the
17 employee until ~~such time as~~ *the time of* the disposition of
18 the option (or the stock acquired upon exercise of the
19 option).

20 No deduction shall be allowed under Section 162 of the
21 Internal Revenue Code to the employer on the grant or
22 exercise of a California qualified stock option.

23 (e) Subdivision (d) shall not apply to any stock option
24 for which an election has been made under Section 83(b)
25 of the Internal Revenue Code, relating to election to
26 include in gross income in year of transfer.

27 SEC. 8. Section 17570 of the Revenue and Taxation
28 Code is amended to read:

29 17570. (a) For each taxable year beginning on or
30 after January 1, 1997, Section 475 of the Internal Revenue
31 Code, relating to mark to market accounting method for
32 securities dealers, as added by Section 13223 of the
33 Revenue Reconciliation Act of 1993 (P.L. 103-66), shall
34 apply, except as otherwise provided.

35 (b) Section 13233(c)(2)(C) of the Revenue
36 Reconciliation Act of 1993 (P.L. 103-66), relating to the
37 effective date for changes in the mark to market
38 accounting method for securities dealers, is modified to
39 provide that the amount taken into account under
40 Section 481 of the Internal Revenue Code of 1986 shall be

1 taken into account ratably over the five-taxable-year
2 period beginning with the first taxable year beginning on
3 or after January 1, 1997.

4 SEC. 9. Section 17935 of the Revenue and Taxation
5 Code is amended to read:

6 17935. (a) For each taxable year beginning on or
7 after January 1, 1997, every limited partnership doing
8 business in this state (as defined by Section 23101) and
9 required to file a return under Section 18633 shall pay
10 annually to this state a tax for the privilege of doing
11 business in this state in an amount equal to the applicable
12 amount specified in Section 23153.

13 (b) In addition to any limited partnership that is doing
14 business in this state and therefore is subject to the tax
15 imposed by subdivision (a), for each taxable year
16 beginning on or after January 1, 1997, every limited
17 partnership that has executed, acknowledged, and filed
18 a certificate of limited partnership with the Secretary of
19 State pursuant to Section 15621 of the Corporations Code,
20 and every foreign limited partnership that has registered
21 with the Secretary of State pursuant to Section 15692 of
22 the Corporations Code, shall pay annually the tax
23 prescribed in subdivision (a). The tax shall be paid for
24 each taxable year, or part thereof, until a certificate of
25 cancellation is filed on behalf of the limited partnership
26 with the office of the Secretary of State pursuant to
27 Section 15623 or 15696 of the Corporations Code.

28 (c) The tax imposed under this section shall be due
29 and payable on the date the return is required to be filed
30 under former Section 18432 or Section 18633.

31 (d) For purposes of this section, “limited partnership”
32 means any partnership formed by two or more persons
33 under the laws of this state or any other jurisdiction and
34 having one or more general partners and one or more
35 limited partners.

36 SEC. 10. Section 17936 is added to the Revenue and
37 Taxation Code, to read:

38 17936. A limited partnership shall not be subject to
39 the taxes imposed by this chapter if the limited

1 partnership did no business in this state during the taxable
2 year and the taxable year was 15 days or less.

3 SEC. 11. Section 18633 of the Revenue and Taxation
4 Code is amended to read:

5 18633. (a) (1) Every partnership, within three
6 months and 15 days after the close of its taxable year, shall
7 make a return for that taxable year, stating specifically
8 the items of gross income and the deductions allowed by
9 Part 10 (commencing with Section 17001). Except as
10 otherwise provided in Section 18621.5, the return shall
11 include the names, addresses, and taxpayer identification
12 numbers of the persons, whether residents or
13 nonresidents, who would be entitled to share in the net
14 income if distributed and the amount of the distributive
15 share of each person. The return shall contain or be
16 verified by a written declaration that it is made under the
17 penalties of perjury, signed by one of the partners.

18 (2) In addition to returns required by paragraph (1),
19 every limited partnership subject to the tax imposed by
20 subdivision (b) of Section 17935 or 23081, within three
21 months and 15 days after the close of its taxable year, shall
22 make a return for that year. In the case of a limited
23 partnership not doing business in this state, the Franchise
24 Tax Board shall prescribe the manner and extent to which
25 the information identified in paragraph (1) shall be
26 included with the return required by this paragraph.

27 (b) Each partnership required to file a return under
28 subdivision (a) for any taxable year shall (on or before the
29 day on which the return for that taxable year was
30 required to be filed) furnish to each person who is a
31 partner or who holds an interest in that partnership as a
32 nominee for another person at any time during that
33 taxable year a copy of that information required to be
34 shown on that return as may be required by regulations.

35 (c) Any person who holds an interest in a partnership
36 as a nominee for another person shall do both of the
37 following:

38 (1) Furnish to the partnership, in the manner
39 prescribed by the Franchise Tax Board, the name,
40 address, and taxpayer identification number of that other

1 person, and any other information for that taxable year as
2 the Franchise Tax Board may by form and regulation
3 prescribe.

4 (2) Furnish to that other person, in the manner
5 prescribed by the Franchise Tax Board, the information
6 provided by that partnership under subdivision (b).

7 (d) The provisions of Section 6031(d) of the Internal
8 Revenue Code, relating to the separate statement of
9 items of unrelated business taxable income, shall apply.

10 (e) The amendments made to this section by the act
11 adding this subdivision shall apply to returns required to
12 be filed under subdivision (a) after the effective date of
13 that act.

14 (f) The amendments made to this section by the act
15 adding this subdivision shall apply to returns required to
16 be filed on or after January 1, 1998.

17 SEC. 12. Section 18633.5 of the Revenue and Taxation
18 Code is amended to read:

19 18633.5. (a) Every limited liability company which is
20 classified as a partnership for California tax purposes that
21 is doing business in this state, organized in this state, or
22 registered with the Secretary of State shall file its return
23 within three months and 15 days after the close of its
24 taxable or income year, shall make a return for that
25 taxable year, stating specifically the items of gross income
26 and the deductions allowed by Part 10 (commencing with
27 Section 17001). The return shall include the names,
28 addresses, and taxpayer identification numbers of the
29 persons, whether residents or nonresidents, who would
30 be entitled to share in the net income if distributed and
31 the amount of the distributive share of each person. The
32 return shall contain or be verified by a written
33 declaration that it is made under the penalties of perjury,
34 signed by one of the limited liability company members.
35 In the case of a limited liability company not doing
36 business in this state and subject to the tax imposed by
37 subdivision (b) of Section 17941 or 23091, the Franchise
38 Tax Board shall prescribe the manner and extent to which
39 the information identified in this subdivision shall be
40 included with the return required by this subdivision.

1 (b) Each limited liability company required to file a
2 return under subdivision (a) for any limited liability
3 company taxable or income year shall, on or before the
4 day on which the return for that taxable or income year
5 was required to be filed, furnish to each person who holds
6 an interest in that limited liability company at any time
7 during that taxable or income year a copy of that
8 information required to be shown on that return as may
9 be required by forms and instructions prescribed by the
10 Franchise Tax Board.

11 (c) Any person who holds an interest in a limited
12 liability company as a nominee for another person shall
13 do both of the following:

14 (1) Furnish to the limited liability company, in the
15 manner prescribed by the Franchise Tax Board, the
16 name, address, and taxpayer identification number of
17 that person, and any other information for that taxable or
18 income year as the Franchise Tax Board may prescribe by
19 forms and instructions.

20 (2) Furnish to that other person, in the manner
21 prescribed by the Franchise Tax Board, the information
22 provided by that limited liability company under
23 subdivision (b).

24 (d) The provisions of Section 6031(d) of the Internal
25 Revenue Code, relating to the separate statement of
26 items of unrelated business taxable income, shall apply.

27 (e) (1) A limited liability company shall file with its
28 return required under subdivision (a), in the form
29 required by the Franchise Tax Board, the agreement of
30 each nonresident member to file a return pursuant to
31 Section 18501, to make timely payment of all taxes
32 imposed on the member by this state with respect to the
33 income of the limited liability company, and to be subject
34 to personal jurisdiction in this state for purposes of the
35 collection of income taxes, together with related interest
36 and penalties, imposed on the member by this state with
37 respect to the income of the limited liability company. If
38 the limited liability company fails timely to file the
39 agreements on behalf of each of its nonresident members,
40 then the limited liability company shall, at the time set

1 forth in subdivision (f), pay to this state on behalf of each
2 nonresident member of whom an agreement has not
3 been timely filed an amount equal to the highest marginal
4 tax rate in effect under Section 17041 in the case of
5 members which are individuals, estates, or trusts, and
6 Section 23151 in the case of members which are
7 corporations, multiplied by the amount of the member's
8 distributive share of the income source to the state
9 reflected on the limited liability company's return for the
10 taxable period. A limited liability company shall be
11 entitled to recover the payment made from the member
12 on whose behalf the payment was made.

13 (2) If a limited liability company fails to attach the
14 agreement or to timely pay the payment required by
15 paragraph (1), the payment shall be considered the tax
16 of the limited liability company for purposes of the
17 penalty prescribed by Section 19132 and interest
18 prescribed by Section 19101 for failure to timely pay tax.
19 Payment of the penalty and interest imposed on the
20 limited liability company for failure to timely pay the
21 amount required by this subdivision shall extinguish the
22 liability of a nonresident member for the penalty and
23 interest for failure to make timely payment of all taxes
24 imposed on that member by this state with respect to the
25 income of the limited liability company.

26 (3) No penalty or interest shall be imposed on the
27 limited liability company under paragraph (2) if the
28 nonresident member timely files and pays all taxes
29 imposed on the member by this state with respect to the
30 income of the limited liability company.

31 (f) Any agreement of a nonresident member required
32 to be filed pursuant to subdivision (e) shall be filed at
33 either of the following times:

34 (1) The time the annual return is required to be filed
35 pursuant to this section for the first taxable period for
36 which the limited liability company became subject to tax
37 pursuant to Chapter 1.6 (commencing with Section
38 23091).

39 (2) The time the annual return is required to be filed
40 pursuant to this section for any taxable period in which

1 the limited liability company had a nonresident member
2 on whose behalf the agreement has not been previously
3 filed.

4 (g) Any amount paid by the limited liability company
5 to this state pursuant to paragraph (1) of subdivision (e)
6 shall be considered to be a payment by the member on
7 account of the income tax imposed by this state on the
8 member for the taxable period.

9 (h) Every limited liability company that is classified as
10 a corporation for California tax purposes shall be subject
11 to the requirement to file a tax return under the
12 provisions of Part 10.2 (commencing with Section 18401)
13 and subject to the applicable taxes imposed by Part 11
14 (commencing with Section 23001), including Section
15 23221, relating to the prepayment of the minimum tax to
16 the Secretary of State.

17 (i) The amendments made to this section by the act
18 adding this subdivision shall apply to returns required to
19 be filed on or after January 1, 1998.

20 SEC. 13. Section 19021 of the Revenue and Taxation
21 Code is amended to read:

22 19021. In the case of taxpayers subject to the tax
23 imposed by Article 3 (commencing with Section 23181)
24 of Chapter 2 of Part 11, there shall be due and payable on
25 or before the 15th day of the third month following the
26 close of the preceding year from each taxpayer a
27 percentage of its net income as disclosed by its return
28 which is equal to the rate applicable to corporations
29 subject to the tax imposed by Article 2 (commencing with
30 Section 23151) of Chapter 2 of Part 11 plus the personal
31 property tax rate equivalent included in the bank and
32 financial corporation tax rate determination by the
33 Franchise Tax Board pursuant to Sections 23186 and
34 23186.1. The payment required by this section shall not be
35 less than the minimum tax specified in Section 23153.

36 SEC. 14. Section 19024 of the Revenue and Taxation
37 Code is amended to read:

38 19024. (a) In the case of banks and financial
39 corporations, “estimated tax” means the amount which
40 the bank or financial corporation estimates as the amount

1 of the tax imposed by Part 11 (commencing with Section
2 23001) at the rate determined by the Franchise Tax Board
3 for the preceding year pursuant to Section 23186.1, but in
4 no event shall the estimated tax of a financial corporation
5 be less than the minimum tax prescribed in Section 23153.

6 (b) In case of an increase or decrease in the rate of tax
7 imposed under Section 23151 (tax on general
8 corporations), a bank or financial corporation shall be
9 required to increase or decrease the rate determined by
10 the Franchise Tax Board for the preceding year by the
11 same amount as the change in the rate imposed under
12 Section 23151 determined in accordance with Section
13 24251 (relating to computation of tax when law changed).

14 SEC. 15. Section 19141.6 of the Revenue and Taxation
15 Code is amended to read:

16 19141.6. (a) Each taxpayer determining its income
17 subject to tax pursuant to Section 25101 or electing to file
18 pursuant to Section 25110 shall, for income years
19 beginning on or after January 1, 1994, maintain (in the
20 location, in the manner, and to the extent prescribed in
21 regulations which shall be promulgated by the Franchise
22 Tax Board on or before December 31, 1995) and make
23 available upon request all of the following:

24 (1) Any records as may be appropriate to determine
25 the correct treatment of the components that are a part
26 of one or more unitary businesses for purposes of
27 determining the income derived from or attributable to
28 this state pursuant to Section 25101 or 25110.

29 (2) Any records as may be appropriate to determine
30 the correct treatment of amounts that are attributable to
31 the classification of an item as business or nonbusiness
32 income for purposes of Article 2 (commencing with
33 Section 25120) of Chapter 17 of Part 11.

34 (3) Any records as may be appropriate to determine
35 the correct treatment of the apportionment factors for
36 purposes of Article 2 (commencing with Section 25120)
37 of Chapter 17 of Part 11.

38 (4) Documents and information, including any
39 questionnaires completed and submitted to the Internal
40 Revenue Service that are necessary to audit issues

1 involving attribution of income to the United States or
2 foreign jurisdictions under Section 882 ~~or Subpart F of~~
3 ~~Part III, Subpart F (commencing with Section 951) of,~~
4 ~~Part III (commencing with Section 901) of~~ Subchapter N,
5 or similar sections, of the Internal Revenue Code.

6 (b) For purposes of this section:

7 (1) Information for any year shall be retained for that
8 period of time in which the taxpayers' income or
9 franchise tax liability to this state may be subject to
10 adjustment, including all periods in which additional
11 income or franchise taxes may be assessed, not to exceed
12 eight years from the due date or extended due date of the
13 return, or during which a protest is pending before the
14 Franchise Tax Board, or an appeal is pending before the
15 State Board of Equalization or a lawsuit is pending in the
16 courts of this state or the United States with respect to
17 California franchise or income tax.

18 (2) "Related party" means banks and corporations
19 that are related because one owns or controls directly or
20 indirectly more than 50 percent of the stock of the other
21 or because more than 50 percent of the voting stock of
22 each is owned or controlled, directly or indirectly, by the
23 same interests.

24 (3) "Records" includes any books, papers, or other
25 data.

26 (c) (1) If a bank or corporation subject to this section
27 fails to maintain or fails to cause another to maintain
28 records as required by subdivision (a), that bank or
29 corporation shall pay a penalty of ten thousand dollars
30 (\$10,000) for each income year with respect to which the
31 failure occurs.

32 (2) If any failure described in paragraph (1) continues
33 for more than 90 days after the day on which the
34 Franchise Tax Board mails notice of the failure to the
35 bank or corporation, that bank or corporation shall pay a
36 penalty (in addition to the amount required under
37 paragraph (1)) of ten thousand dollars (\$10,000) for each
38 30-day period (or fraction thereof) during which the
39 failure continues after the expiration of the 90-day period.
40 The additional penalty imposed by this subdivision shall

1 not exceed a maximum of fifty thousand dollars (\$50,000)
2 if the failure to maintain or the failure to cause another
3 to maintain is not willful. This maximum shall apply with
4 respect to income years beginning on or after January 1,
5 1994, and before the earlier of the first day of the month
6 following the month in which regulations are adopted
7 pursuant to this section or December 31, 1995.

8 (3) For purposes of this section, the time prescribed by
9 regulations to maintain records (and the beginning of the
10 90-day period after notice by the Franchise Tax Board)
11 shall be treated as not earlier than the last day on which
12 (as shown to the satisfaction of the Franchise Tax Board)
13 reasonable cause existed for failure to maintain the
14 records.

15 (d) (1) The Franchise Tax Board may apply the rules
16 of paragraph (2) whether or not the board begins a
17 proceeding to enforce a subpoena; or subpoena duces
18 tecum, if subparagraphs (A), (B), and (C) apply:

19 (A) For purposes of determining the correct
20 treatment under Part 11 (commencing with Section
21 23001) of the items described in subdivision (a), the
22 Franchise Tax Board issues a subpoena or subpoena duces
23 tecum to a bank or corporation to produce (either
24 directly or as agent for the related party) any records or
25 testimony.

26 (B) The subpoena or subpoena duces tecum is not
27 quashed in a proceeding begun under paragraph (3) and
28 is not determined to be invalid in a proceeding begun
29 under Section 19504 to enforce the subpoena or subpoena
30 duces tecum.

31 (C) The bank or corporation does not substantially
32 comply in a timely manner with the subpoena or
33 subpoena duces tecum and the Franchise Tax Board has
34 sent by certified or registered mail a notice to that bank
35 or corporation that it has not substantially complied.

36 (D) If the bank or corporation fails to maintain or fails
37 to cause another to maintain records as required by
38 subdivision (a), and by reason of that failure, the
39 subpoena; or subpoena duces tecum; is quashed in a
40 proceeding described in subparagraph (B) or the bank or

1 corporation is not able to provide the records requested
2 in the subpoena or subpoena duces tecum, the Franchise
3 Tax Board may apply the rules of paragraph (2) to any of
4 the items described in subdivision (a) to which the
5 records relate.

6 (2) (A) All of the following shall be determined by the
7 Franchise Tax Board in the Franchise Tax Board's sole
8 discretion from the Franchise Tax Board's own
9 knowledge or from information the Franchise Tax Board
10 may obtain through testimony or otherwise:

11 (i) The components that are a part of one or more
12 unitary businesses for purposes of determining the
13 income derived from or attributable to this state pursuant
14 to Section 25101 or 25110.

15 (ii) Amounts that are attributable to the classification
16 of an item as business or nonbusiness income for purposes
17 of Article 2 (commencing with Section 25120) of Chapter
18 17 of Part 11.

19 (iii) The apportionment factors for purposes of Article
20 2 (commencing with Section 25120) of Chapter 17 of Part
21 11.

22 (iv) The correct amount of income under Section 882
23 of, ~~or Subpart F of Part III of, Subpart F (commencing~~
24 ~~with Section 951) of, Part III (commencing with Section~~
25 ~~901) of Subchapter N of, or similar sections of, the Internal~~
26 Revenue Code.

27 (B) This paragraph shall apply to determine the
28 correct treatment of the items described in subdivision
29 (a) unless the bank or corporation is authorized by its
30 related parties (in the manner and at the time as the
31 Franchise Tax Board shall prescribe) to act as the related
32 parties' limited agent solely for purposes of applying
33 Section 19504 with respect to any request by the
34 Franchise Tax Board to examine records or produce
35 testimony related to any item described in subdivision (a)
36 or with respect to any subpoena or subpoena duces tecum
37 for the records or testimony. The appearance of persons
38 or the production of records by reason of the bank or
39 corporation being an agent shall not subject those persons
40 or records to legal process for any purpose other than

1 determining the correct treatment under Part 11 of the
2 items described in subdivision (a).

3 (C) Determinations made in the sole discretion of the
4 Franchise Tax Board pursuant to this paragraph may be
5 appealed to the State Board of Equalization, in the
6 manner and at a time, as provided by Section 19045 or
7 19324, or may be the subject of an action to recover tax,
8 in the manner and at a time, as provided by Section 19382.
9 The review of determinations by the board or the court
10 shall be limited to whether the determinations were
11 arbitrary or capricious, or are not supported by
12 substantial evidence.

13 (3) (A) Notwithstanding any other law or rule of law,
14 any reporting bank or corporation to which the Franchise
15 Tax Board issues a subpoena or subpoena duces tecum
16 referred to in subparagraph (A) of paragraph (1) shall
17 have the right to begin a proceeding to quash the
18 subpoena or subpoena duces tecum not later than the
19 90th day after the subpoena or subpoena duces tecum was
20 issued. In that proceeding, the Franchise Tax Board may
21 seek to compel compliance with the subpoena or
22 subpoena duces tecum.

23 (B) Notwithstanding any other law or rule of law, any
24 reporting bank or corporation that has been notified by
25 the Franchise Tax Board that it has determined that the
26 bank or corporation has not substantially complied with
27 a subpoena or subpoena duces tecum referred to in
28 paragraph (1) shall have the right to begin a proceeding
29 to review the determination not later than the 90th day
30 after the day on which the notice referred to in
31 subparagraph (C) of paragraph (1) was mailed. If the
32 proceeding is not begun on or before the 90th day, the
33 determination by the Franchise Tax Board shall be
34 binding and shall not be reviewed by any court.

35 (C) The superior courts of the State of California for
36 the Counties of Los Angeles, Sacramento, and San Diego,
37 and for the City and County of San Francisco shall have
38 jurisdiction to hear any proceeding brought under
39 subparagraphs (A) and (B). Any order or other

determination in the proceeding shall be treated as a final order that may be appealed.

(D) If any bank or corporation takes any action as provided in subparagraphs (A) and (B), the running of any period of limitations under Sections 19057 to 19064, inclusive (relating to the assessment and collection of tax), or under Section 19704 (relating to criminal prosecutions) with respect to that bank or corporation shall be suspended for the period during which the proceedings, and appeals therein, are pending. In no event shall any period expire before the 90th day after the day on which there is a final determination in the proceeding.

SEC. 16. The heading of Article 6 (commencing with Section 19280) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code is amended and renumbered to read:

Article 5.5. Collection of Amounts Imposed by a Court

SEC. 17. Section 19280 of the Revenue and Taxation Code is amended to read:

19280. (a) (1) Fines, state or local penalties, forfeitures, restitution fines, restitution orders, or any other amounts imposed by a superior, municipal, or justice court of the State of California upon a person or any other entity that is due and payable in an amount totaling no less than two hundred fifty dollars (\$250), in the aggregate, for criminal offenses, including all offenses involving a violation of the Vehicle Code except offenses relating to parking or registration or offenses by pedestrians or bicyclists, may, no sooner than 90 days after payment of that amount becomes delinquent, be referred by the county or the state to the Franchise Tax Board for collection under guidelines prescribed by the Franchise Tax Board.

(2) For purposes of this subdivision:

(A) The amounts referred by the county or state under this section may include any amounts that a government entity may add to the court imposed

1 obligation as a result of the underlying offense, trial, or
2 conviction. For purposes of this article, those amounts
3 shall be deemed to be imposed by the court.

4 (B) Restitution orders may be referred to the
5 Franchise Tax Board only by a government entity, as
6 agreed upon by the Franchise Tax Board, provided that
7 all of the following apply:

8 (i) The government entity has the authority to collect
9 on behalf of the state or the victim.

10 (ii) The government entity shall be responsible for
11 distributing the restitution order collections, as
12 appropriate.

13 (iii) The government entity shall ensure, in making
14 the referrals and distributions, that it coordinates with
15 any other related collection activities that may occur by
16 counties or other state agencies.

17 (iv) The government entity shall ensure compliance
18 with laws relating to the reimbursement of the State
19 Restitution Fund.

20 (C) The Franchise Tax Board shall establish criteria
21 for referral, which shall include setting forth a minimum
22 dollar amount subject to referral and collection.

23 (b) For the period January 1, 1995, to December 31,
24 1997, inclusive, for purposes of a manageable
25 implementation and evaluation of the program
26 authorized by this article, the Franchise Tax Board may
27 limit referrals to nine counties.

28 (c) Upon written notice to the obligor from the
29 Franchise Tax Board, any amount referred to the
30 Franchise Tax Board under subdivision (a) and any
31 interest thereon, including any interest on the amount
32 referred under subdivision (a) that accrued prior to the
33 date of referral, shall be treated as final and due and
34 payable to the State of California, and shall be collected
35 from the obligor by the Franchise Tax Board in any
36 manner authorized under the law for collection of a
37 delinquent personal income tax liability, including, but
38 not limited to, issuance of an order and levy under Article
39 4 (commencing with Section 706.070) of Chapter 5 of
40 Division 2 of Title 9 of Part 2 of the Code of Civil

1 Procedure in the manner provided for earnings
2 withholding orders for taxes.

3 (d) (1) Part 10 (commencing with Section 18401),
4 this part, Part 10.7 (commencing with Section 21001), and
5 Part 11 (commencing with Section 23001) shall apply to
6 amounts referred under this article in the same manner
7 and with the same force and effect and to the full extent
8 as if the language of those laws had been incorporated in
9 full into this article, except to the extent that any
10 provision is either inconsistent with this article or is not
11 relevant to this article.

12 (2) Any information, information sources, or
13 enforcement remedies and capabilities available to the
14 court or the state referring the amount due described in
15 subdivision (a), shall be available to the Franchise Tax
16 Board to be used in conjunction with, or independent of,
17 the information, information sources, or remedies and
18 capabilities available to the Franchise Tax Board for
19 purposes of administering Part 10 (commencing with
20 Section 18401), this part, Part 10.7 (commencing with
21 Section 21001), or Part 11 (commencing with Section
22 23001).

23 (e) The activities required to implement and
24 administer this part shall not interfere with the primary
25 mission of the Franchise Tax Board to administer Part 10
26 (commencing with Section 17001) and Part 11
27 (commencing with Section 23001).

28 (f) For amounts referred for collection under
29 subdivision (a), interest shall accrue at the greater of the
30 rate applicable to the amount due being collected or the
31 rate provided under Section 19521. When notice of the
32 amount due includes interest and is mailed to the obligor
33 and the amount is paid within ~~40~~ 15 days after the date of
34 notice, interest shall not be imposed for the period after
35 the date of notice.

36 (g) In no event shall a collection under this article be
37 construed as a payment of income taxes imposed under
38 Part 10 (commencing with Section 17001) or Part 11
39 (commencing with Section 23001).



1 SEC. 18. Section 19282 of the Revenue and Taxation
2 Code is amended to read:

3 19282. (a) Except as otherwise provided in
4 subdivision (e), amounts collected under this article shall
5 be transmitted to the Treasurer and deposited in the
6 State Treasury to the credit of the Court Collection
7 Account in the General Fund, which is hereby created.
8 Amounts deposited in the Court Collection Account shall,
9 less an amount that is equal to the costs incurred by the
10 Franchise Tax Board in administering the program
11 authorized by this article, be transferred by the
12 Controller either to the county or to the state fund to
13 which the amount due was originally owing or as
14 otherwise directed by contractual agreement. If the
15 amount collected is not sufficient to satisfy the amounts
16 referred for collection pursuant to Section 19280 that are
17 to be paid by an offender, then the amount paid shall be
18 allocated for distribution on a pro rata basis, as defined in
19 subdivision (d), *except in counties where the board of*
20 *supervisors has established a priority of payment for*
21 *amounts collected under this article pursuant to Section*
22 *1203.1d of the Penal Code.* The amount that is equal to the
23 costs incurred by the Franchise Tax Board in
24 administering the program authorized by this article shall
25 be transferred by the Controller to the General Fund for
26 the purpose of recovering the amount expended by the
27 Franchise Tax Board from General Fund appropriations
28 for the purpose of implementing and administering the
29 program authorized by this article, and related statutes as
30 added or amended by the act adding this article.

31 (b) It is the intent of the Legislature that costs to the
32 Franchise Tax Board to administer this article for the
33 ~~1995-96 and 1996-97 fiscal years not exceed 9 percent of~~
34 ~~1997-98 fiscal year and each fiscal year thereafter not~~
35 ~~exceed 15 percent of the amount it collects pursuant to~~
36 ~~this article. It is also the intent of the Legislature that for~~
37 ~~the 1997-98 fiscal year and thereafter this percentage~~
38 ~~decrease to 5 percent. If the Franchise Tax Board projects~~
39 ~~that its costs will exceed these percentages for a given~~
40 ~~fiscal year, it shall report to the Legislature and the~~

~~Department of Finance the reasons for the excess costs and the consequences of not funding these excess costs.~~

(c) Notwithstanding Section 13340 of the Government Code, all moneys deposited in the Court Collection Account pursuant to this section are hereby continuously appropriated, without regard to fiscal years, for purposes of making distributions pursuant to subdivision (a).

(d) For purposes of this section, “pro rata basis” means a distribution determined as follows: the sum of the amounts referred for collection pursuant to Section 19280 to be paid by an offender shall be allocated and distributed in the same proportion that each of the elements has to the sum.

(e) For amounts collected pursuant to a restitution fine or restitution order, subdivision (a) is modified to require the deposit and disbursement of funds collected under this article to be in accordance with the laws relating to reimbursement of the State Restitution Fund.

SEC. 19. *Section 19283 of the Revenue and Taxation Code is amended to read:*

19283. This article shall remain in effect only until January 1, ~~1999~~ 2002, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, ~~1999~~ 2002, deletes or extends this date.

SEC. 19.3. *Section 19340 of the Revenue and Taxation Code is amended to read:*

19340. Interest shall be allowed and paid on any overpayment in respect of any tax, at the adjusted annual rate established pursuant to Section 19521, as follows:

(a) In the case of a credit, from the date of the overpayment to the due date of the amount for which the credit is allowed. Any interest allowed on any credit shall first be credited on any amounts due from the taxpayer under Part 10 (commencing with Section 17001), this part, or Part 11 (commencing with Section 23001).

(b) In the case of a refund, including a refund in excess of tax liability as prescribed in subdivision (j) of Section 17053.5, from the date of the overpayment to a date preceding the date of the refund warrant by not more

1 than 30 days, the date to be determined by the Franchise
2 Tax Board.

3 SEC. 20. Section 19532 of the Revenue and Taxation
4 Code, *as amended by Chapter 1001 of the Statutes of 1996*,
5 is amended and renumbered to read:

6 19533. In the event the debtor has more than one debt
7 being collected by the Franchise Tax Board and the
8 amount collected by the Franchise Tax Board is
9 insufficient to satisfy the total amount owing, the amount
10 collected shall be applied in the following priority:

11 (a) Payment of any taxes, additions to tax, penalties,
12 interest, fees, or other amounts due and payable under
13 *Part 7.5 (commencing with Section 13201)*, Part 10
14 (commencing with Section 17001), Part 11 (commencing
15 with Section 23001), or this part.

16 (b) Payment of any debts referred for collection under
17 Article 5 (commencing with Section 19271) of Chapter 5.

18 (c) Payment of delinquent wages collected pursuant
19 to the Labor Code.

20 (d) Payment of delinquencies collected under Section
21 10878.

22 (e) Payment of any amounts due that are referred for
23 collection under Article 5.5 (commencing with Section
24 19280) of Chapter 5.

25 (f) Payment of any amounts that are referred for
26 collection pursuant to Section 62.9 of the Labor Code.

27 (g) Payment of delinquent penalties collected for the
28 Department of Industrial Relations pursuant to the Labor
29 Code.

30 (h) Payment of delinquent fees collected for the
31 Department of Industrial Relations pursuant to the Labor
32 Code.

33 (i) Payment of delinquencies referred by the Student
34 Aid Commission pursuant to Section 16583.5 of the
35 Government Code.

36 (j) *Notwithstanding the payment priority established*
37 *by this section, voluntary payments made by an obligated*
38 *parent for a child support delinquency pursuant to*
39 *subparagraph (B) of paragraph (1) of subdivision (b) of*
40 *Section 19271 shall not be applied pursuant to this priority*

1 *but shall instead be applied solely to the child support*
2 *delinquency for which the voluntary payment was made.*

3 SEC. 21. Section 23114 is added to the Revenue and
4 Taxation Code, to read:

5 23114. A corporation shall not be subject to the taxes
6 imposed by this chapter if the corporation did no business
7 in this state during the income year and the income year
8 was 15 days or less.

9 SEC. 22. Section 23183.1 of the Revenue and Taxation
10 Code is amended to read:

11 23183.1. Notwithstanding Section 23183, every
12 financial corporation doing business within the limits of
13 this state and not exempted from taxation by the
14 Constitution of this state or by this part, shall annually pay
15 to the state for the privilege of exercising its corporate
16 franchises within this state, a tax determined as follows:

17 (a) If a financial corporation commences to do
18 business and ceases doing business in the same taxable
19 year, the tax for that taxable year shall be according to or
20 measured by its net income for that year, at the rate
21 provided under Section 23186.

22 (b) With respect to taxable years other than the year
23 of commencement described in subdivision (a) or the
24 year of cessation described in subdivision (c), a tax
25 according to or measured by its net income, to be
26 computed at the rate prescribed in Section 23186 upon
27 the basis of its net income for the next preceding income
28 year.

29 (c) With respect to financial corporations, which cease
30 doing business in a taxable year other than those
31 described in subdivision (a), the tax for the taxable year
32 of cessation shall be:

33 (1) According to or measured by its net income for the
34 next preceding income year to be computed at the rate
35 prescribed in Section 23186, plus

36 (2) According to or measured by its net income for the
37 income year during which the financial corporation
38 ceased doing business, to be computed at the rate
39 prescribed in Section 23186.

1 SEC. 23. Section 23183.2 of the Revenue and Taxation
2 Code is amended to read:

3 23183.2. Notwithstanding Section 23183, every
4 financial corporation not exempted from taxation by the
5 provisions of the Constitution of this state or by this part
6 which dissolves or withdraws, shall pay a tax for its taxable
7 year of dissolution or withdrawal according to or
8 measured by its net income for the income year in which
9 it ceased doing business, to be computed at the rate
10 prescribed in Section 23186 for its taxable year of
11 dissolution or withdrawal, unless the income has
12 previously been included in the measure of tax for any
13 taxable year.

14 SEC. 24. Section 23184 of the Revenue and Taxation
15 Code is repealed.

16 SEC. 25. Section 23184.5 of the Revenue and Taxation
17 Code is repealed.

18 SEC. 26. Section 23185 of the Revenue and Taxation
19 Code is repealed.

20 SEC. 27. Section 23185a of the Revenue and Taxation
21 Code is repealed.

22 SEC. 28. Section 23185b of the Revenue and Taxation
23 Code is repealed.

24 SEC. 29. Section 23221 of the Revenue and Taxation
25 Code is amended to read:

26 23221. (a) Except as provided under subdivision (b),
27 a corporation which incorporates under the laws of this
28 state or qualifies to transact intrastate business in this
29 state shall thereupon prepay the minimum tax provided
30 in Section 23153, except that any credit union shall
31 thereupon prepay a tax of twenty-five dollars (\$25). The
32 prepayment shall be made to the Secretary of State with
33 the filing of the articles of incorporation or the statement
34 and designation by a foreign corporation. The Secretary
35 of State shall transmit the amount of the prepayment to
36 the Franchise Tax Board. The Franchise Tax Board shall
37 certify to the Secretary of State on an individual or class
38 basis those domestic or foreign corporations which are
39 exempt from prepayment or for which prepayment to
40 the Secretary of State is waived.

(b) For income years commencing on or after January 1, 1997, the amount payable by a qualified new corporation under subdivision (a) shall be six hundred dollars (\$600).

(c) For purposes of this section, “qualified new corporation” means a corporation that reasonably estimates that, for the income year, it will have both gross receipts, less returns and allowances reportable to this state, of one million dollars (\$1,000,000) or less and a tax liability under Section 23151 that does not exceed eight hundred dollars (\$800).

(1) The determination of gross receipts of a corporation, for purposes of this section, shall be made by including the gross receipts of each member of the commonly controlled group, as defined in Section 25105, of which the bank or corporation is a member.

(2) “Gross receipts, less returns and allowances reportable to this state” means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of Section 25120.

(d) Subdivision (b) shall not apply to any corporation if 50 percent or more of its stock is, or will be upon the initial issuance of stock, owned by another corporation.

(e) For income years commencing on or after January 1, 1997, if a corporation paid six hundred dollars (\$600) under subdivision (b), but for its first income year the corporation’s tax liability under Section 23151 exceeds eight hundred dollars (\$800), or the corporation’s gross receipts, as determined under paragraph (2) of subdivision (c), exceed one million dollars (\$1,000,000), an additional tax in the amount equal to two hundred dollars (\$200) shall be due and payable by the corporation on the due date of its return, without regard to extension, for its first income year.

SEC. 30. Section 23332 of the Revenue and Taxation Code is amended to read:

23332. (a) Except in the case of a taxpayer subject to the provisions of Section 23222a, any taxpayer which is

1 dissolved or withdraws from the state during any taxable
 2 year shall pay a tax only for the months of the taxable year
 3 which precede the effective date of the dissolution or
 4 withdrawal, according to or measured by (1) the net
 5 income of the preceding income year or (2) a percentage
 6 of net income determined by ascertaining the ratio which
 7 the months of the taxable year, preceding the effective
 8 date of dissolution or withdrawal, bears to the months of
 9 the income year, whichever is the lesser amount. The
 10 taxes levied under this chapter shall not be subject to
 11 abatement or refund because of the cessation of business
 12 or corporate existence of any taxpayer pursuant to a
 13 reorganization, consolidation, or merger (as defined by
 14 Section 23251). In any event, each corporation shall pay
 15 a tax not subject to offset for the period in an amount
 16 equal to the minimum tax prescribed by Section 23153.

17 (b) The provisions of subdivision (a) shall be applied
 18 only with respect to taxpayers which dissolve or withdraw
 19 before January 1, 1973. On and after that date, the tax for
 20 the taxable year in which the taxpayer ceases doing
 21 business, dissolves or withdraws shall be determined
 22 under the appropriate provisions of Section 23151.1,
 23 23153, 23181, or 23183, whichever is applicable. However,
 24 if all of the following conditions are satisfied, a minimum
 25 franchise tax shall not be imposed with respect to the
 26 taxable year in which a tax clearance certificate is issued
 27 by the Franchise Tax Board:

28 (1) The taxpayer does not do business in this state at
 29 any time during that taxable year.

30 (2) The taxpayer files a certificate of dissolution with
 31 the Secretary of State prior to the beginning of that
 32 taxable year, in accordance with Section 1905 of the
 33 Corporations Code.

34 SEC. 31. Section 23332.5 of the Revenue and Taxation
 35 Code is amended to read:

36 23332.5. If a financial corporation ceases doing
 37 business, dissolves, or withdraws from the state during
 38 any taxable year, the tax for the taxable year during which
 39 cessation of doing business, dissolution or withdrawal

1 occurs shall be computed as prescribed by subdivision (b)
2 or (d) of Section 23183, 23183.1, or 23183.2.

3 SEC. 32. Section 23455 of the Revenue and Taxation
4 Code is amended to read:

5 23455. For purposes of this part, Section 55 of the
6 Internal Revenue Code is modified as follows:

7 (a) Section 55(b)(1) of the Internal Revenue Code,
8 relating to tentative minimum tax, is modified by
9 requiring the tentative minimum tax for the taxable year
10 to be imposed as follows:

11 (1) With respect to corporations subject to tax under
12 Chapter 2 (commencing with Section 23101), other than
13 financial corporations, according to or measured by net
14 income, for the privilege of doing business within this
15 state, at a rate of 7 percent upon the basis of so much of
16 the alternative minimum taxable income for the taxable
17 year as exceeds the exemption amount.

18 (2) With respect to corporations subject to tax under
19 Chapter 3 (commencing with Section 23501), on net
20 income from sources within this state, at a rate of 7
21 percent upon the basis of so much of the alternative
22 minimum taxable income for the taxable year as exceeds
23 the exemption amount.

24 (3) With respect to organizations or trusts subject to
25 tax under Article 2 (commencing with Section 23731) of
26 Chapter 4, on the unrelated business income from sources
27 within this state, at a rate of 7 percent upon the basis of
28 so much of the alternative taxable income for the taxable
29 year as exceeds the exemption amount.

30 (4) With respect to banks subject to tax under Section
31 23181, according to or measured by net income, for the
32 privilege of doing business within this state, in an amount
33 equal to the sum of the following:

34 (A) At a rate of 7 percent upon the basis of so much of
35 the alternative minimum taxable income as exceeds the
36 exemption amount.

37 (B) At the rate determined under Section 23186, less
38 the rate prescribed by Section 23151, upon the basis of net
39 income for the taxable year.



(5) With respect to financial corporations subject to tax under Section 23183, according to or measured by net income, for the privilege of doing business within this state, in an amount equal to the sum of the following:

(A) At a rate of 7 percent upon the basis of so much of the alternative minimum taxable income as exceeds the exemption amount.

(B) At the rate determined under Section 23186, less the rate prescribed by Section 23151, upon the basis of net income for the taxable year.

(b) Section 55(b)(2) of the Internal Revenue Code, relating to the definition of alternative minimum taxable income, is modified as follows:

(1) For corporations whose net income is determined under Chapter 17 (commencing with Section 25101), alternative minimum taxable income shall be allocated and apportioned in the same manner as net income is allocated and apportioned for purposes of the regular tax.

(2) With respect to taxpayers subject to Article 4 (commencing with Section 23221) of Chapter 2, Article 4 (commencing with Section 23221) to Article 9 (commencing with Section 23361), inclusive, shall apply to the tax imposed by this section except that Section 23221 shall not apply.

(3) For purposes of computing the alternative minimum tax for taxable years in which a taxpayer commenced doing business, dissolves, withdraws, or ceases doing business, Sections 18601, 23151, 23151.1, 23151.2, 23181, 23183, 23183.1, 23183.2, 23201 to 23204, inclusive, 23222 to 23224.5, inclusive, 23282, 23332.5, and 23504 shall be applied with due regard for the rate and alternative minimum taxable income prescribed by this chapter.

(c) Section 55(c) of the Internal Revenue Code, relating to the definition of regular tax, is modified to read:

(1) For purposes of this chapter, “regular tax” means the amount of tax imposed under Chapter 2 (commencing with Section 23101) or Chapter 3 (commencing with Section 23501) or Article 2

1 (commencing with Section 23731) of Chapter 4, but does
2 not include any amount imposed under paragraph (1) of
3 subdivision (e) of Section 24667 or paragraph (2) of
4 subdivision (f) of Section 24667.

5 (2) The tax specified in paragraph (1) shall be the
6 amount determined prior to reduction by any credits
7 against the tax.

8 (d) The rate of 7 percent prescribed in subdivision (a)
9 shall be 6.65 percent for any income year beginning on or
10 after January 1, 1997. The change in rate provided in this
11 subdivision shall be made without proration otherwise
12 required by Section 24251.

13 SEC. 33. Section 23649 of the Revenue and Taxation
14 Code is amended to read:

15 23649. (a) (1) A qualified taxpayer shall be allowed
16 a credit against the "tax," as defined in Section 23036,
17 equal to 6 percent of the qualified cost of qualified
18 property that is placed in service in this state.

19 (2) In the case of any qualified costs paid or incurred
20 on or after January 1, 1994, and prior to the first income
21 year of the qualified taxpayer beginning on or after
22 January 1, 1995, the credit provided under paragraph (1)
23 shall be claimed by the qualified taxpayer on the qualified
24 taxpayer's return for the first income year beginning on
25 or after January 1, 1995. No credit shall be claimed under
26 this section on a return filed for any income year
27 commencing prior to the qualified taxpayer's first income
28 year beginning on or after January 1, 1995.

29 (b) (1) For purposes of this section, "qualified cost"
30 means any cost that satisfies each of the following
31 conditions:

32 (A) Except as otherwise provided in this
33 subparagraph, is a cost paid or incurred by the qualified
34 taxpayer for the construction, reconstruction, or
35 acquisition of qualified property on or after January 1,
36 1994, and prior to the date this section ceases to be
37 operative under paragraph (2) of subdivision (i). In the
38 case of any qualified property constructed,
39 reconstructed, or acquired by the qualified taxpayer (or
40 any person related to the qualified taxpayer within the

1 meaning of Section 267 or 707 of the Internal Revenue
2 Code) pursuant to a binding contract in existence on or
3 prior to January 1, 1994, costs paid pursuant to that
4 contract shall be subject to allocation as follows: contract
5 costs shall be allocated to qualified property based on a
6 ratio of costs actually paid prior to January 1, 1994, and
7 total contract costs actually paid. "Cost paid" shall
8 include, without limitation, contractual deposits and
9 option payments. To the extent of cost allocated, whether
10 or not currently deductible or depreciable for tax
11 purposes, to a period prior to January 1, 1994, the cost shall
12 be deemed allocated to property acquired before January
13 1, 1994, and is thus not a "qualified cost."

14 (B) Except as provided in paragraph (2) of subdivision
15 (d) and subparagraph (B) of paragraph (3) of subdivision
16 (d), is an amount upon which the qualified taxpayer has
17 paid, directly or indirectly, as a separately stated contract
18 amount or as determined from the records of the
19 qualified taxpayer, sales or use tax under Part 1
20 (commencing with Section 6001).

21 (C) Is an amount properly chargeable to the capital
22 account of the qualified taxpayer.

23 (2) (A) For purposes of this subdivision, any contract
24 entered into on or after January 1, 1994, that is a successor
25 or replacement contract to a contract that was binding
26 prior to January 1, 1994, shall be treated as a binding
27 contract in existence prior to January 1, 1994.

28 (B) If a successor or replacement contract is entered
29 into on or after January 1, 1994, and the subject of the
30 successor or replacement contract relates both to
31 amounts for the construction, reconstruction, or
32 acquisition of qualified property described in the original
33 binding contract and to costs for the construction,
34 reconstruction, or acquisition of qualified property not
35 described in the original binding contract, then the
36 portion of those amounts described in the successor or
37 replacement contract that were not described in the
38 original binding contract shall not be treated as costs paid
39 or incurred pursuant to a binding contract in existence on

1 or prior to January 1, 1994, under subparagraph (A) of
2 paragraph (1).

3 (3) (A) For purposes of this section, an option
4 contract in existence prior to January 1, 1994, under which
5 a qualified taxpayer (or any other person related to the
6 qualified taxpayer within the meaning of Section 267 or
7 707 of the Internal Revenue Code) had an option to
8 acquire qualified property, shall be treated as a binding
9 contract under the rules in paragraph (2). For purposes
10 of this subparagraph, an option contract shall not include
11 an option under which the option holder will forfeit an
12 amount less than 10 percent of the fixed option price in
13 the event the option is not exercised.

14 (B) For purposes of this section, a contract shall be
15 treated as binding even if the contract is subject to a
16 condition.

17 (c) (1) For purposes of this section, “qualified
18 taxpayer” means any taxpayer engaged in those lines of
19 business described in Codes 2011 to 3999, inclusive, of the
20 Standard Industrial Classification (SIC) Manual
21 published by the United States Office of Management
22 and Budget, 1987 edition.

23 (2) In the case of any passthrough entity, the
24 determination of whether a taxpayer is a qualified
25 taxpayer shall be made at the entity level and any credit
26 under this section or Section 17053.49 shall be allowed to
27 the passthrough entity and passed through to the partners
28 or shareholders in accordance with applicable provisions
29 of Part 10 (commencing with Section 17001) or Part 11
30 (commencing with Section 23001). For purposes of this
31 paragraph, the term “passthrough entity” means any
32 partnership or S corporation.

33 (3) The Franchise Tax Board may prescribe
34 regulations to carry out the purposes of this section,
35 including any regulations necessary to prevent the
36 avoidance of the effect of this section through splitups,
37 shell corporations, partnerships, tiered ownership
38 structures, sale-leaseback transactions, or otherwise.

1 (d) For purposes of this section, “qualified property”
2 means property that is described as either of the
3 following:

4 (1) Tangible personal property that is defined in
5 Section 1245(a) of the Internal Revenue Code for use by
6 a qualified taxpayer in those lines of business described in
7 Codes 2011 to 3999, inclusive, of the Standard Industrial
8 Classification (SIC) Manual published by the United
9 States Office of Management and Budget, 1987 edition,
10 that is primarily used for any of the following:

11 (A) For the manufacturing, processing, refining,
12 fabricating, or recycling of property, beginning at the
13 point at which any raw materials are received by the
14 qualified taxpayer and introduced into the process and
15 ending at the point at which the manufacturing,
16 processing, refining, fabricating, or recycling has altered
17 tangible personal property to its completed form,
18 including packaging, if required.

19 (B) In research and development.

20 (C) To maintain, repair, measure, or test any property
21 described in this paragraph.

22 (D) For pollution control that meets or exceeds
23 standards established by the state or by any local or
24 regional governmental agency within the state.

25 (E) For recycling.

26 (2) The value of any capitalized labor costs that are
27 directly allocable to the construction or modification of
28 property described in paragraph (1).

29 (3) In the case of any qualified taxpayer engaged in
30 manufacturing activities described in SIC Code 357 or
31 367, those activities related to biotechnology described in
32 SIC Code 8731, those activities related to
33 biopharmaceutical establishments only that are
34 described in SIC Codes 2833 to 2836, inclusive, those
35 activities related to space vehicles and parts described in
36 SIC Codes 3761 to 3769, inclusive, those activities related
37 to space satellites and communications satellites and
38 equipment described in SIC Codes 3663 and 3812 (but
39 only with respect to “qualified property” that is placed in
40 service on or after January 1, 1996), or those activities

1 related to semiconductor equipment manufacturing
2 described in SIC Code 3559 (but only with respect to
3 “qualified property” that is placed in service on or after
4 January 1, 1997), “qualified property” also includes the
5 following:

6 (A) Special purpose buildings and foundations that are
7 constructed or modified for use by the qualified taxpayer
8 primarily in a manufacturing, processing, refining, or
9 fabricating process, or as a research or storage facility
10 primarily used in connection with a manufacturing
11 process.

12 (B) The value of any capitalized labor costs that are
13 directly allocable to the construction or modification of
14 special purpose buildings and foundations that are used
15 primarily in the manufacturing, processing, refining, or
16 fabricating process, or as a research or storage facility
17 primarily used in connection with a manufacturing
18 process.

19 (C) (i) For purposes of this paragraph, “special
20 purpose building and foundation” means only a building
21 and the foundation immediately underlying the building
22 that is specifically designed and constructed or
23 reconstructed for the installation, operation, and use of
24 specific machinery and equipment with a special
25 purpose, which machinery and equipment, after
26 installation, will become affixed to or a fixture of the real
27 property, and the construction or reconstruction of which
28 is specifically designed and used exclusively for the
29 specified purposes as set forth in subparagraph (A)
30 (“qualified purpose”).

31 (ii) A building is specifically designed and constructed
32 or modified for a qualified purpose if it is not economical
33 to design and construct the building for the intended
34 purpose and then use the structure for a different
35 purpose.

36 (iii) For purposes of clause (i) and clause (vi), a
37 building is used exclusively for a qualified purpose only if
38 its use does not include a use for which it was not
39 specifically designed and constructed or modified.
40 Incidental use of a building for nonqualified purposes

1 does not preclude the building from being a special
2 purpose building. “Incidental use” means a use which is
3 both related and subordinate to the qualified purpose. It
4 will be conclusively presumed that a use is not
5 subordinate if more than one-third of the total usable
6 volume of the building is devoted to a use which is not a
7 qualified purpose.

8 (iv) In the event an entire building does not qualify as
9 a special purpose building, a taxpayer may establish that
10 a portion of a building, and the foundation immediately
11 underlying the portion, qualifies for treatment as a special
12 purpose building and foundation if the portion satisfies all
13 of the definitional provisions in this subparagraph.

14 (v) To the extent that a building is not a special
15 purpose building as defined above, but a portion of the
16 building qualifies for treatment as a special purpose
17 building, then all equipment which exclusively supports
18 the qualified purpose occurring within that portion and
19 which would qualify as Internal Revenue Code Section
20 1245 property if it were not a fixture or affixed to the
21 building shall be treated as a cost of the portion of the
22 building which qualifies for treatment as a special
23 purpose building.

24 (vi) Buildings and foundations which do not meet the
25 definition of a special purpose building and foundation set
26 forth above include, but are not limited to: buildings
27 designed and constructed or reconstructed principally to
28 function as a general purpose manufacturing, industrial,
29 or commercial building; research facilities that are used
30 primarily prior to or after, or prior to and after, the
31 manufacturing process; or storage facilities that are used
32 primarily prior to or after, or prior to and after,
33 completion of the manufacturing process. A research
34 facility shall not be considered to be used primarily prior
35 to or after, or prior to and after, the manufacturing
36 process if its purpose and use relate exclusively to the
37 development and regulatory approval of the
38 manufacturing process for specific biopharmaceutical
39 products. A research facility which is used primarily in
40 connection with the discovery of an organism from which

1 a biopharmaceutical product or process is developed does
2 not meet the requirements of the preceding sentence.

3 (4) Subject to the provisions in subparagraph (B) of
4 paragraph (1) of subdivision (b), qualified property also
5 includes computer software that is primarily used for
6 those purposes set forth in paragraph (1) of this
7 subdivision.

8 (5) Qualified property does not include any of the
9 following:

10 (A) Furniture.

11 (B) Facilities used for warehousing purposes after
12 completion of the manufacturing process.

13 (C) Inventory.

14 (D) Equipment used in the extraction process.

15 (E) Equipment used to store finished products that
16 have completed the manufacturing process.

17 (F) Any tangible personal property that is used in
18 administration, general management, or marketing.

19 (G) Any vehicle for which a credit is claimed pursuant
20 to Section 17052.11 or 23603.

21 (e) For purposes of this section:

22 (1) “Biopharmaceutical activities” means those
23 activities which use organisms or materials derived from
24 organisms, and their cellular, subcellular, or molecular
25 components, in order to provide pharmaceutical
26 products for human or animal therapeutics and
27 diagnostics. Biopharmaceutical activities make use of
28 living organisms to make commercial products, as
29 opposed to pharmaceutical activities which make use of
30 chemical compounds to produce commercial products.

31 (2) “Fabricating” means to make, build, create,
32 produce, or assemble components or property to work in
33 a new or different manner.

34 (3) “Manufacturing” means the activity of converting
35 or conditioning property by changing the form,
36 composition, quality, or character of the property for
37 ultimate sale at retail or use in the manufacturing of a
38 product to be ultimately sold at retail. Manufacturing
39 includes any improvements to tangible personal property

1 that result in a greater service life or greater functionality
2 than that of the original property.

3 (4) “Other biotechnology activities” means activities
4 consisting of the application of recombinant DNA
5 technology to produce commercial products, as well as
6 activities regarding pharmaceutical delivery systems
7 designed to provide a measure of control over the rate,
8 duration, and site of pharmaceutical delivery.

9 (5) “Primarily” means tangible personal property
10 used 50 percent or more of the time in an activity
11 described in subdivision (d).

12 (6) “Process” means the period beginning at the point
13 at which any raw materials are received by the qualified
14 taxpayer and introduced into the manufacturing,
15 processing, refining, fabricating, or recycling activity of
16 the qualified person and ending at the point at which the
17 manufacturing, processing, refining, fabricating, or
18 recycling activity of the qualified taxpayer has altered
19 tangible personal property to its completed form,
20 including packaging, if required. Raw materials shall be
21 considered to have been introduced into the process
22 when the raw materials are stored on the same premises
23 where the qualified taxpayer’s manufacturing,
24 processing, refining, fabricating, or recycling activity is
25 conducted. Raw materials that are stored on premises
26 other than where the qualified taxpayer’s manufacturing,
27 processing, refining, fabricating, or recycling activity is
28 conducted, shall not be considered to have been
29 introduced into the manufacturing, processing, refining,
30 fabricating, or recycling process.

31 (7) “Processing” means the physical application of the
32 materials and labor necessary to modify or change the
33 characteristics of property.

34 (8) “Refining” means the process of converting a
35 natural resource to an intermediate or finished product.

36 (9) “Research and development” means those
37 activities that are described in Section 174 of the Internal
38 Revenue Code or in any regulations thereunder.

1 (10) “Small business” means a qualified taxpayer that
2 meets any of the following requirements during the
3 income year for which the credit is allowed:

4 (A) Has gross receipts of less than fifty million dollars
5 (\$50,000,000).

6 (B) Has net assets of less than fifty million dollars
7 (\$50,000,000).

8 (C) Has a total credit of less than one million dollars
9 (\$1,000,000).

10 (D) For income years beginning on or after January 1,
11 1997, is engaged in biopharmaceutical activities or other
12 biotechnology activities that are described in Codes 2833
13 to 2836, inclusive, of the Standard Industrial Classification
14 (SIC) Manual published by the United States Office of
15 Management and Budget, 1987 edition, and has not
16 received regulatory approval for any product from the
17 United States Food and Drug Administration.

18 (f) The credit allowed under subdivision (a) shall
19 apply to qualified property that is acquired by or subject
20 to lease by a qualified taxpayer, subject to the following
21 special rules:

22 (1) A lessor of qualified property, irrespective of
23 whether the lessor is a qualified taxpayer, shall not be
24 allowed the credit provided under subdivision (a) with
25 respect to any qualified property leased to another
26 qualified taxpayer.

27 (2) For purposes of paragraphs (2) and (3) of
28 subdivision (b), “binding contract” shall include any
29 lease agreement with respect to the qualified property.

30 (3) (A) For purposes of determining the qualified
31 cost paid or incurred by a lessee in any leasing transaction
32 that is not treated as a sale under Part 1 (commencing
33 with Section 6001), the following rules shall apply:

34 (i) Except as provided by subparagraph (C) of this
35 paragraph, subparagraphs (A) and (C) of paragraph (1)
36 of subdivision (b) shall not apply.

37 (ii) Except as provided in subparagraph (B) and
38 clause (iii), the “qualified cost” upon which the lessee
39 shall compute the credit provided under this section shall
40 be equal to the original cost to the lessor (within the

1 meaning of Section 24912) of the qualified property that
2 is the subject of the lease.

3 (iii) Except as provided in clause (iv), the
4 requirement of subparagraph (B) of paragraph (1) of
5 subdivision (b) shall be treated as satisfied only if the
6 lessor has made a timely election under either Section
7 6094.1 or subdivision (d) of Section 6244 and has paid sales
8 tax reimbursement or use tax measured by the purchase
9 price of the qualified property (within the meaning of
10 paragraph (5) of subdivision (g) of Section 6006). For
11 purposes of this subdivision and clause (iv), the amount
12 of original cost to the lessor which may be taken into
13 account under clause (ii) shall not exceed the purchase
14 price upon which sales tax reimbursement or use tax has
15 been paid under the preceding sentence or under clause
16 (iv).

17 (iv) With respect to leases entered into between
18 January 1, 1994, and the effective date of this clause, the
19 lessor may elect to pay use tax measured by the purchase
20 price of the property by reporting and paying the tax with
21 the return of the lessor for the fourth calendar quarter of
22 1994. In computing the use tax under the preceding
23 sentence, a credit shall be allowed under Part 1
24 (commencing with Section 6001) for all sales or use tax
25 previously paid on the lease.

26 (B) For purposes of applying subparagraph (A) only,
27 the following special rules shall apply:

28 (i) The original cost to the lessor of the qualified
29 property shall be reduced by the amount of any original
30 cost of that property that was taken into account by any
31 predecessor lessee in computing the credit allowable
32 under this section.

33 (ii) Clause (i) shall not apply in any case where the
34 predecessor lessee was required to recapture the credit
35 provided under this section pursuant to the provisions of
36 subdivision (g).

37 (iii) For purposes of this section only, in any case
38 where a successor lessor has acquired qualified property
39 from a predecessor lessor in a transaction not treated as
40 a sale under Part 1 (commencing with Section 6001), the

1 original cost to the successor lessor of the qualified
2 property shall be reduced by the amount of the original
3 cost of the qualified property that was taken into account
4 by any lessee of the predecessor lessor in computing the
5 credit allowable under this section.

6 (C) In determining the original cost of any qualified
7 property under this paragraph, only amounts paid or
8 incurred by the lessor on or after January 1, 1994, and
9 prior to the date this section ceases to be operative under
10 paragraph (2) of subdivision (i), shall be taken into
11 account. In the case of any qualified property
12 constructed, reconstructed, or acquired by a lessor
13 pursuant to a binding contract in existence on or prior to
14 January 1, 1994, the allocation rule specified in
15 subparagraph (A) of paragraph (1) of subdivision (b)
16 shall apply in determining the original cost to the lessor
17 of qualified property.

18 (D) Notwithstanding subparagraph (A), in the case of
19 any leasing transaction for which the lessee is allowed the
20 credit under this section and thereafter the lessee (or any
21 party related to the lessee within the meaning of Section
22 267 or 318 of the Internal Revenue Code) acquires the
23 qualified property from the lessor (or any successor
24 lessor) within one year from the date the qualified
25 property is first used by the lessee under the terms of the
26 lease, the lessee's (or related party's) acquisition of the
27 qualified property from the lessor (or successor lessor)
28 shall be treated as a disposition by the lessee of the
29 qualified property that was subject to the lease under
30 subdivision (g).

31 (4) For purposes of determining the qualified cost
32 paid or incurred by a lessee in any leasing transaction that
33 is treated as a sale under Part 1 (commencing with
34 Section 6001), the following rules shall apply:

35 (A) Subparagraph (A) of paragraph (1) of subdivision
36 (b) shall be applied by substituting the term "purchase"
37 for the term "construction, reconstruction, or
38 acquisition."

39 (B) Subparagraph (C) of paragraph (1) of subdivision
40 (b) shall apply.



(C) The requirement of subparagraph (B) of paragraph (1) of subdivision (b) shall be treated as satisfied at the time that either the lessor or the qualified taxpayer pays sales or use tax under Part 1 (commencing with Section 6001).

(5) (A) In the case of any leasing transaction described in paragraph (3), the lessor shall provide a statement to the lessee specifying the amount of the lessor's original cost of the qualified property and the amount of that cost upon which a sales or use tax was paid within 45 days after the close of the lessee's taxable year in which the credit is allowable to the lessee under this section.

(B) The statement required under subparagraph (A) shall be made available to the Franchise Tax Board upon request.

(g) No credit shall be allowed if the qualified property is removed from the state, is disposed of to an unrelated party, or is used for any purpose not qualifying for the credit provided in this section in the same taxable year in which the qualified property is first placed in service in this state. If any qualified property for which a credit is allowed pursuant to this section is thereafter removed from this state, disposed of to an unrelated party, or used for any purpose not qualifying for the credit provided in this section within one year from the date the qualified property is first placed in service in this state, the amount of the credit allowed by this section for that qualified property shall be recaptured by adding that credit amount to the net tax of the qualified taxpayer for the taxable year in which the qualified property is disposed of, removed, or put to an ineligible use.

(h) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years as follows:

(1) Except as provided in paragraph (2), for the seven succeeding years if necessary, until the credit is exhausted.

1 (2) In the case of a small business, for the nine
2 succeeding years, if necessary, until the credit is
3 exhausted.

4 (i) (1) This section shall remain in effect until the
5 date specified in paragraph (2) on which date this section
6 shall cease to be operative, and as of that date is repealed.
7 However, any unused credit may continue to be carried
8 forward, as provided in subdivision (h), until the credit
9 is exhausted.

10 (2) (A) This section shall cease to be operative on
11 January 1, 2001, or on January 1 of the earliest year
12 thereafter, if the total employment in this state, as
13 determined by the Employment Development
14 Department on the preceding January 1, does not exceed
15 by 100,000 jobs the total employment in this state on
16 January 1, 1994. The department shall report to the
17 Legislature annually with respect to the determination
18 required by the preceding sentence.

19 (B) For purposes of this paragraph, “total
20 employment” means the total employment in the
21 manufacturing sector, excluding employment in the
22 aerospace sector.

23 (j) The amendments made by the act adding this
24 subdivision shall be operative for income years beginning
25 on or after January 1, 1997, except as provided in
26 paragraph (3) of subdivision (d).

27 SEC. 34. Section 23802 of the Revenue and Taxation
28 Code is amended to read:

29 23802. (a) Section 1363(a) of the Internal Revenue
30 Code, relating to the taxability of an S corporation, shall
31 not be applicable.

32 (b) Corporations qualifying under this chapter shall
33 continue to be subject to the taxes imposed under
34 Chapter 2 (commencing with Section 23101) and
35 Chapter 3 (commencing with Section 23501), except as
36 follows:

37 (1) The tax imposed under Section 23151 or 23501 shall
38 be imposed at a rate of $1\frac{1}{2}$ percent rather than the rate
39 specified in those sections.

1 (2) In the case of an “S corporation” which is also a
2 financial corporation, the rate of tax specified in
3 paragraph (1) shall be increased by the excess of the rate
4 imposed under Section 23183 over the rate imposed
5 under Section 23151.

6 (c) An “S corporation” shall be subject to the
7 minimum franchise tax imposed under Section 23153.

8 (d) (1) For purposes of subdivision (b), an “S
9 corporation” shall be allowed a deduction under Section
10 24416 or 24416.1 (relating to net operating loss
11 deductions), but only with respect to losses incurred
12 during periods in which the corporation had in effect a
13 valid election to be treated as an “S corporation” for
14 purposes of this part.

15 (2) Section 1371(b) of the Internal Revenue Code,
16 relating to denial of carryovers between “C years” and “S
17 years,” shall apply for purposes of the tax imposed under
18 subdivision (b), except as provided in paragraph (1).

19 (3) The provisions of this subdivision shall not affect
20 the amount of any item of income or loss computed in
21 accordance with the provisions of Section 1366 of the
22 Internal Revenue Code, relating to passthrough items to
23 shareholders.

24 (4) For purposes of subdivision (b) of Section 17276,
25 relating to limitations on loss carryovers, losses passed
26 through to shareholders of an “S corporation,” to the
27 extent otherwise allowable without application of that
28 subdivision, shall be fully included in the net operating
29 loss of that shareholder and then that subdivision shall be
30 applied to the entire net operating loss.

31 (e) For purposes of computing the taxes specified in
32 subdivision (b), an “S corporation” shall be allowed a
33 deduction from income for built-in gains and passive
34 investment income for which a tax has been imposed
35 under this part in accordance with the provisions of
36 Section 1374 of the Internal Revenue Code, relating to tax
37 imposed on certain built-in gains, or Section 1375 of the
38 Internal Revenue Code, relating to tax imposed on
39 passive investment income.

(f) For purposes of computing taxes imposed under this part, as provided in subdivision (b)—

(1) An “S corporation” shall compute its deductions for amortization and depreciation in accordance with the provisions of Part 10 (commencing with Section 17001) of Division 2.

(2) The provisions of Section 465 of the Internal Revenue Code, relating to limitation of deductions to the amount at risk, shall be applied in the same manner as in the case of an individual.

(3) (A) The provisions of Section 469 of the Internal Revenue Code, relating to limitations on passive activity losses and credits, shall be applied in the same manner as in the case of an individual. For purposes of the tax imposed under Section 23151 or 23501, as modified by this section, material participation shall be determined in accordance with Section 469(h) of the Internal Revenue Code, relating to certain closely held “C corporations” and personal service corporations.

(B) For purposes of this paragraph, the “adjusted gross income” of the “S corporation” shall be equal to its “net income,” as determined under Section 24341 with the modifications required by this subdivision, except that no deduction shall be allowed for contributions allowed by Section 24357.

(4) The exclusion provided under Section 18152.5 shall not be allowed to an “S corporation.”

(g) The provisions of Section 1363(d) of the Internal Revenue Code, relating to recapture of LIFO benefits, shall be modified for purposes of this part to refer to Section 19102 in lieu of Section 6601 of the Internal Revenue Code.

SEC. 35. Section 23809 of the Revenue and Taxation Code is amended to read:

23809. There is hereby imposed a tax on built-in gains attributable to California sources, determined in accordance with the provisions of Section 1374 of the Internal Revenue Code, relating to tax imposed on certain built-in gains, as modified by this section.

1 (a) (1) The rate of tax specified in Section 1374(b)(1)
2 of the Internal Revenue Code shall be equal to the rate
3 of tax imposed under Section 23151 in lieu of the rate of
4 tax specified in Section 11(b) of the Internal Revenue
5 Code.

6 (2) In the case of an “S corporation” which is also a
7 financial corporation, the rate of tax specified in
8 paragraph (1) shall be increased by the excess of the rate
9 imposed under Section 23183 over the rate imposed
10 under Section 23151.

11 (b) The provisions of Section 1374(b)(3) of the
12 Internal Revenue Code, relating to credits, shall be
13 modified to provide that the tax imposed under
14 subdivision (a) shall not be reduced by any credits
15 allowed under this part.

16 (c) The provisions of Section 1374(b)(4) of the
17 Internal Revenue Code, relating to coordination with
18 Section 1201(a), shall not be applicable.

19 (d) In the case of a corporation which is subject to the
20 provisions of former Section 1374 of the Internal Revenue
21 Code (prior to amendment by Public Law 99-514), the
22 provisions of that section shall be modified to provide
23 that:

24 (1) The tax specified in Section 1374(b)(1) of the
25 Internal Revenue Code shall be equal to the rate of tax
26 imposed under Section 23151 in lieu of the rate of tax
27 specified in Section 11(b) of the Internal Revenue Code.

28 (2) In the case of an “S corporation” which is also a
29 financial corporation, the rate of tax specified in
30 paragraph (1) shall be increased by the excess of the rate
31 imposed under Section 23183 over the rate imposed
32 under Section 23151.

33 SEC. 36. Section 23811 of the Revenue and Taxation
34 Code is amended to read:

35 23811. Except as otherwise provided in this section,
36 there is hereby imposed a tax on passive investment
37 income attributable to California sources, determined in
38 accordance with the provisions of Section 1375 of the
39 Internal Revenue Code, relating to tax imposed on
40 passive investment income, as modified by this section.

1 (a) The tax imposed under this section shall not be
2 imposed on an “S corporation” that has no excess net
3 passive income for federal purposes determined in
4 accordance with Section 1375 of the Internal Revenue
5 Code.

6 (b) (1) The rate of tax shall be equal to the rate of tax
7 imposed under Section 23151 in lieu of Section 11(b) of
8 the Internal Revenue Code.

9 (2) In the case of an “S corporation” which is also a
10 financial corporation, the rate of tax specified in
11 paragraph (1) shall be increased by the excess of the rate
12 imposed under Section 23183 over the rate imposed
13 under Section 23151.

14 (c) The provisions of Section 1375(c)(1) of the
15 Internal Revenue Code, relating to credits, shall be
16 modified to provide that the tax imposed under
17 subdivision (a) shall not be reduced by any credits
18 allowed under this part.

19 (d) The term “subchapter C earnings and profits” as
20 used in Sections 1362(d)(3) and 1375 of the Internal
21 Revenue Code shall mean the subchapter C earnings and
22 profits of the corporation attributable to California
23 sources determined under this part, modified as provided
24 in subdivision (e).

25 (e) (1) In the case of a corporation which elects to be
26 treated as an “S corporation” for purposes of this part for
27 its first income year beginning in 1987, or for its first
28 income year for which it has in effect a valid federal S
29 election, there shall be allowed as a deduction in
30 determining that corporation’s subchapter C earnings
31 and profits at the close of any income year the amount of
32 any consent dividend (as provided in paragraph (2)) paid
33 after the close of that income year.

34 (2) In the event there is a determination that a
35 corporation described in paragraph (1) has subchapter C
36 earnings and profits at the close of any income year, that
37 corporation shall be entitled to distribute a consent
38 dividend to its shareholders. The amount of the consent
39 dividend shall not exceed the difference between the
40 corporation’s subchapter C earnings and profits

1 determined under subdivision (d) at the close of the
2 income year with respect to which the determination is
3 made and the corporation's subchapter C earnings and
4 profits for federal income tax purposes at the same date.
5 A consent dividend must be paid within 90 days of the
6 date of the determination that the corporation has
7 subchapter C earnings and profits. For this purpose, the
8 date of a determination means the effective date of a
9 closing agreement pursuant to Section 19441, the date an
10 assessment of tax imposed by this section becomes final,
11 or the date of execution by the corporation of an
12 agreement with the Franchise Tax Board relating to
13 liability for the tax imposed by this section. For purposes
14 of Part 10 and this part, a corporation must make the
15 election provided in Section 1368(e)(3) of the Internal
16 Revenue Code for any consent dividend.

17 (3) If a corporation distributes a consent dividend, it
18 shall claim the deduction provided in paragraph (1) by
19 filing a claim therefor with the Franchise Tax Board
20 within 120 days of the date of the determination specified
21 in paragraph (2).

22 (4) The collection of *the* tax imposed by this section
23 from a corporation described in paragraph (2) shall be
24 stayed for 120 days after the date of the determination
25 specified in paragraph (2). If a claim is filed pursuant to
26 paragraph (3), collection of the tax shall be further stayed
27 until the date the claim is acted upon by the Franchise
28 Tax Board.

29 (5) If a claim is filed pursuant to paragraph (3), the
30 running of the statute of limitations on the making of
31 assessments and actions for collection of the tax imposed
32 by this section shall be suspended for a period of two years
33 after the date of the determination specified in paragraph
34 (2).

35 SEC. 37. Section 24416.2 of the Revenue and Taxation
36 Code is amended to read:

37 24416.2. The term "qualified taxpayer" as used in
38 Section 24416.1 means any of the following:

39 (a) A bank or corporation engaged in the conduct of
40 a trade or business within an enterprise zone designated

1 pursuant to Chapter 12.8 (commencing with Section
2 7070) of Division 7 of Title 1 of the Government Code.

3 (1) A net operating loss shall not be a net operating loss
4 carryback for any income year and a net operating loss for
5 any income year beginning on or after the date that the
6 area in which the taxpayer conducts a trade or business
7 is designated as an enterprise zone shall be a net
8 operating loss carryover to each of the 15 income years
9 following the income year of loss.

10 (2) For purposes of this subdivision:

11 (A) “Net operating loss” means the loss determined
12 under Section 172 of the Internal Revenue Code, as
13 modified by Section 24416.1, attributable to the taxpayer’s
14 business activities within the enterprise zone (as defined
15 in Chapter 12.8 (commencing with Section 7070) of
16 Division 7 of Title 1 of the Government Code) prior to the
17 enterprise zone expiration date. That attributable loss
18 shall be determined in accordance with the provisions of
19 Chapter 17 (commencing with Section 25101), modified
20 for purposes of this section by substituting “enterprise
21 zone” for “this state.”

22 (B) A net operating loss carryover shall be a deduction
23 only with respect to the taxpayer’s business income
24 attributable to the enterprise zone (as defined in Chapter
25 12.8 (commencing with Section 7070) of Division 7 of
26 Title 1 of the Government Code) determined in
27 accordance with the provisions of Chapter 17
28 (commencing with Section 25101), modified for purposes
29 of this section by substituting “enterprise zone” for “this
30 state.”

31 (C) If a loss carryover is allowable pursuant to this
32 section for any income year after the enterprise zone
33 designation has expired, the enterprise zone shall be
34 deemed to remain in existence for purposes of computing
35 the limitation set forth in subparagraph (B) and allowing
36 a net operating loss deduction.

37 (D) “Enterprise zone expiration date” means the date
38 the enterprise zone designation expires, is no longer
39 binding, or becomes inoperative.

(b) A bank or corporation engaged in the conduct of a trade or business within the Los Angeles Revitalization Zone designated pursuant to Section 7102 of the Government Code.

(1) (A) A net operating loss shall not be a net operating loss carryback for any income year and, except as provided in subparagraph (B), a net operating loss for any income year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated the Los Angeles Revitalization Zone shall be a net operating loss carryover to each following income year that ends before the Los Angeles Revitalization Zone expiration date or to each of the 15 income years following the income year of loss, if longer.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the income year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(2) For the purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer’s business activities within the Los Angeles Revitalization Zone (as defined in Section 7102 of the Government Code) prior to the Los Angeles Revitalization Zone expiration date. The attributable loss shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified as follows:

(i) The loss shall be apportioned to the Los Angeles Revitalization Zone by multiplying the loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The Los Angeles Revitalization Zone” shall be substituted for this state.

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income

1 attributable to the Los Angeles Revitalization Zone (as
2 defined in Section 7102 of the Government Code)
3 determined in accordance with the provisions of
4 paragraph (3).

5 (C) If a loss carryover is allowable pursuant to this
6 section for any income year after the Los Angeles
7 Revitalization Zone designation has expired, the Los
8 Angeles Revitalization Zone shall be deemed to remain
9 in existence for purposes of computing the limitation set
10 forth in subparagraph (B) and allowing a net operating
11 loss deduction.

12 (3) Attributable income shall be that portion of the
13 taxpayer's California source business income which is
14 apportioned to the Los Angeles Revitalization Zone. For
15 that purpose, the taxpayer's business income attributable
16 to sources in this state first shall be determined in
17 accordance with the provisions of Chapter 17
18 (commencing with Section 25101). That business income
19 shall be further apportioned to the Los Angeles
20 Revitalization Zone in accordance with the provisions of
21 Article 2 (commencing with Section 25120) of Chapter
22 17, modified as follows:

23 (A) Business income shall be apportioned to the Los
24 Angeles Revitalization Zone by multiplying total
25 California business income of the taxpayer by a fraction,
26 the numerator of which is the property factor plus the
27 payroll factor, and the denominator of which is two.

28 (B) The property factor is a fraction, the numerator of
29 which is the average value of the taxpayer's real and
30 tangible personal property owned or rented and used in
31 the Los Angeles Revitalization Zone during the income
32 year and the denominator of which is the average value
33 of all the taxpayer's real and tangible personal property
34 owned or rented and used in this state during the income
35 year.

36 (C) The payroll factor is a fraction, the numerator of
37 which is the total amount paid by the taxpayer in the Los
38 Angeles Revitalization Zone during the income year for
39 compensation, and the denominator of which is the total

1 compensation paid by the taxpayer in this state during the
2 income year.

3 (4) “Los Angeles Revitalization Zone expiration date”
4 means the date the Los Angeles Revitalization Zone
5 designation expires, is repealed, or becomes inoperative
6 pursuant to Section 7102, 7103, or 7104 of the Government
7 Code.

8 (5) This subdivision shall be inoperative on the first
9 day of the income year beginning on or after the
10 determination date, and each income year thereafter,
11 with respect to the taxpayer’s business activities within a
12 geographic area that is excluded from the map pursuant
13 to Section 7102 of the Government Code, or an excluded
14 area determined pursuant to Section 7104 of the
15 Government Code. The determination date is the earlier
16 of the first effective date of a determination under
17 subdivision (c) of Section 7102 of the Government Code
18 occurring after December 1, 1994, or the first effective
19 date of an exclusion of an area from the amended Los
20 Angeles Revitalization Zone under Section 7104 of the
21 Government Code. However, if the taxpayer has any
22 unused loss amount as of the date this section becomes
23 inoperative, that unused loss amount may continue to be
24 carried forward as provided in this subdivision.

25 (6) This subdivision shall cease to be operative on
26 January 1, 1998. However, any unused net operating loss
27 may continue to be carried over to following years as
28 provided in this subdivision.

29 (c) For each income year beginning on or after
30 January 1, 1995, and before January 1, 2003, a taxpayer
31 engaged in the conduct of a trade or business within a
32 LAMBRA.

33 (1) (A) A net operating loss shall not be a net
34 operating loss carryback for any income year and, except
35 as provided in subparagraph (B), a net operating loss for
36 any income year beginning on or after the date the area
37 in which the taxpayer conducts a trade or business is
38 designated a LAMBRA shall be a net operating loss
39 carryover to each following income year that ends before

1 the LAMBRA expiration date or to each of the 15 income
2 years following the income year of loss, if longer.

3 (B) In the case of a financial institution to which
4 Section 585, 586, or 593 of the Internal Revenue Code
5 applies, a net operating loss for any income year
6 beginning on or after January 1, 1984, shall be a net
7 operating loss carryover to each of the five years
8 following the income year of the loss. Subdivision (b) of
9 Section 24416.1 shall not apply.

10 (2) For the purposes of this subdivision:

11 (A) “LAMBRA” means a local agency military base
12 recovery area designated in accordance with Section 7114
13 of the Government Code.

14 (B) “Taxpayer” means a bank or corporation that
15 conducts a trade or business within a LAMBRA and, for
16 the first two income years, has a net increase in jobs
17 (defined as 2,000 paid hours per employee per year) of
18 one or more employees in the LAMBRA and this state.

19 (i) The net increase in the number of jobs shall be
20 determined by subtracting the total number of full-time
21 employees (defined as 2,000 paid hours per employee per
22 year) the taxpayer employed in this state in the income
23 year prior to commencing business operations in the
24 LAMBRA from the total number of full-time employees
25 the taxpayer employed in this state during the second
26 income year after commencing business operations in the
27 LAMBRA. For taxpayers who commence doing business
28 in this state with their LAMBRA business operation, the
29 number of employees for the income year prior to
30 commencing business operations in the LAMBRA shall
31 be zero. The deduction shall be allowed only if the
32 taxpayer has a net increase in jobs in the state, and if one
33 or more full-time employees is employed within the
34 LAMBRA.

35 (ii) The total number of employees employed in the
36 LAMBRA shall equal the sum of both of the following:

37 (I) The total number of hours worked in the LAMBRA
38 for the taxpayer by employees (not to exceed 2,000 hours
39 per employee) who are paid an hourly wage divided by
40 2,000.

(II) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(iii) In the case of a taxpayer that first commences doing business in the LAMBRA during the income year, for purposes of subclauses (I) and (II), respectively, of clause (ii) the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the income year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(C) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the taxpayer’s business activities within a LAMBRA prior to the LAMBRA expiration date. The attributable loss shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified as follows:

(i) Loss shall be apportioned to a LAMBRA by multiplying the loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The LAMBRA” shall be substituted for “this state.”

(D) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to a LAMBRA determined in accordance with the provisions of Chapter 17 (commencing with Section 25101), modified as follows:

(i) Business income shall be apportioned to a LAMBRA by multiplying total business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The LAMBRA” shall be substituted for “this state.”

(iii) If a loss carryover is allowable pursuant to this section for any income year after the LAMBRA designation has expired, the LAMBRA shall be deemed

1 to remain in existence for purposes of computing this
2 limitation.

3 (E) “LAMBRA expiration date” means the date the
4 LAMBRA designation expires, is no longer binding, or
5 becomes inoperative pursuant to Section 7110 of the
6 Government Code.

7 (d) A taxpayer who qualifies as a “qualified taxpayer”
8 shall, for the income year of the net operating loss and any
9 income year to which that net operating loss may be
10 carried, designate on the original return filed for each
11 year the subdivision of this section which applies to that
12 taxpayer with respect to that net operating loss. If the
13 taxpayer is eligible to qualify under more than one
14 subdivision of this section, the designation is to be made
15 after taking into account subdivision (e).

16 (e) If a taxpayer is eligible to qualify under more than
17 one subdivision of this section as a “qualified taxpayer,”
18 with respect to a net operating loss in an income year, the
19 taxpayer shall designate which subdivision of this section
20 is to apply to the taxpayer.

21 (f) Notwithstanding Section 24416, the amount of the
22 loss determined under this section shall be the only net
23 operating loss allowed to be carried over from that
24 income year and the designation under subdivision (d)
25 shall be included in the election under Section 24416.1.

26 SEC. 38. Section 24602 of the Revenue and Taxation
27 Code is amended to read:

28 24602. (a) In addition to the application of Part II
29 (commencing with Section 421) of Subchapter D of
30 Chapter 1 of Subtitle A of the Internal Revenue Code,
31 relating to certain stock options, paragraphs (1), (2), and
32 (3) of Section 421(a) of the Internal Revenue Code shall
33 also apply to any California qualified stock option that is
34 granted to an individual whose earned income from the
35 corporation granting the California qualified stock option
36 for the income year in which that option is exercised does
37 not exceed forty thousand dollars (\$40,000). In the event
38 that the option does not meet the necessary
39 qualifications, the option shall be treated as a
40 nonqualified stock option.

(b) For purposes of this section, “California qualified stock option” means a stock option that is issued and exercised pursuant to this section and that is designated by the corporation issuing the option as a California qualified stock option at the time the option is granted.

(c) (1) This section shall apply only to those stock options that are issued on or after January 1, 1997, and before January 1, 2002, by a corporation to its employee and are exercised by the employee, while employed by the corporation that issued those stock options (or within three months thereof, or within one year thereof if permanently and totally disabled as defined in Section 22(e)(3) of the Internal Revenue Code), during the income year with respect to any class of shares, or combination thereof, issued by the corporation, to the extent that the number of shares transferable by the exercise of the options does not exceed a total of 1,000 and have a combined fair market value of less than one hundred thousand dollars (\$100,000). The combined fair market value of any stock shall be determined as of the time the option with respect to that stock is granted.

(2) Paragraph (1) shall be applied by taking options into account in the order in which they were granted.

(d) In the case of a California qualified stock option, no amount shall be included in the gross income of the employee until ~~such time as~~ *the time of* the disposition of the option (or the stock acquired upon exercise of the option). No deduction shall be allowed under Section 162 of the Internal Revenue Code to the employer on the grant or exercise of a California qualified stock option.

(e) Subdivision (d) shall not apply to any stock option for which an election has been made under Section 83(b) of the Internal Revenue Code, relating to election to include in gross income in year of transfer.

SEC. 39. Section 24710 of the Revenue and Taxation Code is amended to read:

24710. (a) For each income year beginning on or after January 1, 1997, Section 475 of the Internal Revenue Code, relating to mark to market accounting method for securities dealers, as added by Section 13223 of the

1 Revenue Reconciliation Act of 1993 (P.L. 103-66), shall
2 apply, except as otherwise provided.

3 (b) Section 13233(c)(2)(C) of the Revenue
4 Reconciliation Act of 1993 (P.L. 103-66), relating to the
5 effective date for changes in the mark to market
6 accounting method for securities dealers, is modified to
7 provide that the amount taken into account under
8 Section 481 of the Internal Revenue Code of 1986 shall be
9 taken into account ratably over the five-income-year
10 period beginning with the first income year beginning on
11 or after January 1, 1997.

12 SEC. 40. Section 24903 of the Revenue and Taxation
13 Code is repealed.

14 SEC. 41. Section 24918 of the Revenue and Taxation
15 Code is amended to read:

16 24918. (a) Section 1017 of the Internal Revenue
17 Code, relating to discharge of indebtedness, shall apply,
18 except as otherwise provided. References to affiliated
19 groups which file a consolidated return under Section
20 1501 of the Internal Revenue Code shall be treated as
21 meaning members of the same unitary group which file
22 a combined report under Article 1 (commencing with
23 Section 25101) of Chapter 17.

24 (b) The amendments to Section 1017 of the Internal
25 Revenue Code made by Section 13226 of the Revenue and
26 Reconciliation Act of 1993 (P.L. 103-66), relating to
27 modifications of discharge of indebtedness provisions,
28 shall apply to discharges occurring on or after January 1,
29 1996, in income years beginning on or after January 1,
30 1996.

31 SEC. 42. Section 24954 is added to the Revenue and
32 Taxation Code, to read:

33 24954. Section 1042 of the Internal Revenue Code,
34 relating to sales of stock to employee stock ownership
35 plans or certain cooperatives, shall apply to income years
36 beginning on or after January 1, 1996.

37 SEC. 43. Section 1088.5 of the Unemployment
38 Insurance Code is amended to read:

39 1088.5. (a) In addition to information reported in
40 accordance with Section 1088, each employer shall file

1 with the department the information provided in
2 subdivision (b) on new employees.

3 (b) Each employer shall report all of the following
4 information to the department:

5 (1) The hiring of any person who resides or works in
6 this state to whom the employer anticipates paying
7 earnings.

8 (2) The rehiring or return to work of any person who
9 has been laid off, furloughed, separated, granted a leave
10 without pay, or terminated from employment, and to
11 whom the employer anticipates paying wages.

12 (c) Employers shall not be required to report on any
13 of the following persons:

14 (1) Any person whom the employer pays wages of less
15 than three hundred dollars (\$300) each month.

16 (2) Any person who is under 18 years of age.

17 (d) (1) The department and the State Department of
18 Social Services, jointly, shall adopt rules and regulations
19 to establish exemptions in addition to those provided in
20 subdivision (c), if the department and the State
21 Department of Social Services determine the exemptions
22 are needed to reduce unnecessary or burdensome
23 reporting or are needed to facilitate cost-effective
24 operation of this section.

25 (2) The department and the State Department of
26 Social Services shall adopt regulations required pursuant
27 to paragraph (1) by April 1, 1993.

28 (e) (1) Employers shall submit a report within 30 days
29 of the hiring, rehiring, or return to work of any person on
30 whom the employer is required to report pursuant to this
31 section.

32 (2) The report shall contain all of the following:

33 (A) The first initial and last name and social security
34 number of the person.

35 (B) The employer's name, address, and state
36 employer identification number.

37 (3) The report required by Section 1088 shall not be
38 accepted in lieu of the report required by this section.

39 (f) Employers may report pursuant to this section, by
40 submitting a copy of the employee's W-4 form, a form

1 provided by the department, or any other hiring
2 document, by mail or telefaxing or by any other means
3 that is authorized by the department and that will result
4 in timely reporting.

5 (g) The department shall retain information collected
6 pursuant to this section for no more than 180 days after
7 the end of the calendar quarter, except for purposes of
8 enforcement of subdivision (i).

9 (h) The department may use the information
10 collected pursuant to this section only for the following
11 purposes:

12 (1) The administration and enforcement of this
13 section.

14 (2) The identification, prevention, and collection of
15 benefit overpayments pursuant to any of the following
16 provisions:

17 (A) Article 4 (commencing with Section 1375) of
18 Chapter 5.

19 (B) Article 5 (commencing with Section 2735) of
20 Chapter 2 of Part 2.

21 (C) Section 3751.

22 (D) Section 4751.

23 (3) The location of noncustodial parents or the income
24 of noncustodial parents.

25 (4) The identification of errors in employer reports of
26 wages filed pursuant to Section 1088.

27 (5) The verification of employment of applicants for,
28 and recipients of, services under the Aid to Families with
29 Dependent Children program or the Food Stamp
30 Program, provided for pursuant to Chapter 2
31 (commencing with Section 11200) of Part 3 and Chapter
32 10 (commencing with Section 18900) of Part 6,
33 respectively, of Division 9 of the Welfare and Institutions
34 Code.

35 (6) The identification and collection of delinquent
36 liabilities under this code.

37 (7) To assist the department in determining the
38 effectiveness of its job placement services.



1 (i) Information obtained by the department pursuant
2 to this section may be released to the Franchise Tax Board
3 for tax enforcement purposes.

4 (j) The department shall provide a written notice to
5 any employer for the employer's first failure to report any
6 new hire, rehire, or return to work of an employee. For
7 each subsequent failure to report as required by this
8 section that occurs after the date the employer receives
9 notice from the department of his or her first failure to
10 report, unless the failure is due to good cause, the
11 employer shall be subject to a penalty of two hundred
12 fifty dollars (\$250).

13 (k) The department shall not enforce the employer
14 reporting requirements of this section until April 1, 1993,
15 or when regulations are adopted pursuant to subdivision
16 (d), whichever is sooner.

17 (l) For purposes of this section, "wages" means the
18 same as defined in Section 926.

19 SEC. 44. Section 56 of Chapter 952 of the Statutes of
20 1996 is amended to read:

21 Sec. 56. Except as otherwise provided, the provisions
22 of this act shall be applied to taxable or income years
23 beginning on or after January 1, 1997.

24 SEC. 45. *For purposes of administering Article 6*
25 *(commencing with Section 19280) of Chapter 5 of Part*
26 *10.2 of Division 2 of the Revenue and Taxation Code, as*
27 *added by Chapter 1242 of the Statutes of 1994, the sum of*
28 *four hundred thousand dollars (\$400,000) is hereby*
29 *appropriated to the Franchise Tax Board, in*
30 *augmentation of Item 1730-001-0242 of the Budget Act of*
31 *1997, that sum to be transferred to Item 1730-001-0001 of*
32 *the Budget Act of 1997 for the purpose of funding*
33 *Schedule (f) thereof, relating to court collections.*

34 SEC. 46. *The due date for the report to the*
35 *Legislature required by Section 13 of Chapter 1242 of the*
36 *Statutes of 1994 is hereby extended from April 1, 1998, to*
37 *April 1, 2001.*

38 SEC. 47. The Legislature finds and declares that this
39 act repeals provisions that have been obsolete since
40 January 1, 1981, when the provisions of Chapter 1150 of

1 the Statutes of 1979 took effect, providing financial
2 corporations with the same taxation treatment as banks,
3 thereby prohibiting the imposition of personal property
4 taxes or business license taxes on financial corporations by
5 local jurisdictions. The repeal of Sections 23184, 23184.5,
6 23185, 23185a, and 23185b of the Revenue and Taxation
7 Code made by this act shall not affect any act done or any
8 right accruing or accrued, or any suit, appeal, or other
9 proceeding that commenced under any of those sections
10 before that repeal.

11 ~~SEC. 46.~~

12 *SEC. 48.* The amendments to Sections 17053.49, 17062,
13 17570, 23221, 23649, 24710, and 24918 of, the addition of
14 Section 24954 to, and the repeal of Section 24903 of, the
15 Revenue and Taxation Code, and the amendments to
16 Section 1088.5 of the Unemployment Insurance Code,
17 made by this act are intended to clarify, and are consistent
18 with, the intent of Chapter 954 of the Statutes of 1996 and
19 shall become operative as provided in Chapter 954 of the
20 Statutes of 1996.

21 ~~SEC. 47.~~

22 *SEC. 49.* This act provides for a tax levy within the
23 meaning of Article IV of the Constitution and shall go into
24 immediate effect. However, the individual sections of this
25 act shall become operative as otherwise specifically
26 provided in this act.

